



**SPECIAL REPORT:**  
A Review of the  
Tennessee Bureau  
of Investigation

January 2018

JUSTIN P. WILSON  
*Comptroller*



JUSTIN P. WILSON  
*Comptroller*

JASON E. MUMPOWER  
*Chief of Staff*

January 16, 2018

The Honorable Randy McNally, Lieutenant Governor  
The Honorable Beth Harwell, Speaker of the House  
The Honorable Bo Watson, Chairman  
The Honorable Charles Sargent, Chairman  
Members of the 110th General Assembly  
Cordell Hull Building  
425 Fifth Avenue North  
Nashville, Tennessee 37243

Mr. Mark Gwyn, Director  
Tennessee Bureau of Investigation  
901 R.S. Gass Boulevard  
Nashville, Tennessee 37216

Ladies and Gentlemen:

The 2017 Appropriations Act included \$8 million in non-recurring funds for the Tennessee Bureau of Investigation (TBI) to purchase the airplane used by TBI for search and rescue, criminal surveillance, and public safety purposes. The Act also required the Comptroller's Office to perform a comprehensive review of TBI's accounting and budgeting processes as well as a general review of how the agency should implement best practices in fiscal management to maximize its effectiveness. A May 2017 letter from Senate Finance, Ways and Means Committee Chairman Watson provided additional detail as to the expectations for this comprehensive review.

As requested, this report provides a review of TBI's fiscal operations, including an analysis of TBI's budget, the procurement of the Pilatus airplane, staffing, as well as grants and contracts. A history of TBI and its development over time, as well as an analysis of its independence, is also included. The report includes a number of conclusions, recommendations, and policy considerations.

I know you will agree that strong administrative and fiscal operations help TBI better carry out its important law enforcement operations. I hope that this comprehensive report will prove useful in reviewing TBI's history, understanding its operations, and thinking about its future.

Sincerely,

A handwritten signature in blue ink that reads "Justin P. Wilson".

Justin P. Wilson  
Comptroller of the Treasury

LEGISLATIVE CHARGE LETTER AND ATTACHMENT



**BO WATSON**  
**SENATOR**  
11TH SENATORIAL DISTRICT

HOME OFFICE  
P. O. Box 2059  
Hixson, TN  
(423) 488-2353

LEGISLATIVE OFFICE  
307 War Memorial Building  
NASHVILLE, TN 37243-0211  
(615) 741-3227

**Senate Chamber**  
**State of Tennessee**

**RECEIVED**

MAY 23 2017

COMPTROLLER OF  
THE TREASURY

CHAIRMAN:  
Finance, Ways & Means

COMMITTEE MEMBERSHIP:

Health & Welfare  
Commerce & Labor  
Rules

May 17, 2017

The Honorable Justin P. Wilson  
Tennessee Comptroller of the Treasury  
Tennessee State Capitol  
Nashville, TN 37243-9034

Dear Mr. Comptroller,

In reference to Section 64, Item 27 of the 2017 Appropriations bill (SB 483/HB 511), I thought it might be helpful to you if I followed up with some clarification to help guide your agency as it preforms its review of the Tennessee Bureau of Investigation's "back office" operations.

It is the Senate Finance Committee's intent that the Comptroller's office has as much flexibility as needed to perform this review. We trust you will provide the Committee with a thorough and objective analysis of the fiscal operations of the TBI and report that analysis back to the Committee.

On May, 2, 2017 during the meeting of our Appropriations Subcommittee, I read specific language into the record so that your agency would have a starting point for this review. These areas of interest came to our attention during the course of conversations with the TBI and others. I have attached these comments to this letter for your convenience.

We would like for your focus to be on their "back office" budgeting and accounting processes. We recognize that weakness in these areas directly impact their administrative and program operations. Therefore, we welcome any findings, observations and recommendations that may be related to aspects of their non-fiscal operations that are impacted by their financial posture and strategies, such as any potential staffing or equipment needs.

After your review is complete, please provide a written report to the committee that outlines your findings, including an executive summary to help members place the subsequent information in context.

## LEGISLATIVE CHARGE LETTER AND ATTACHMENT

This report should include recommendations on any negative findings. Further, we will schedule your office to present your findings to the Committee after you submit your report next January.

If you have any questions during the course of this review please do not hesitate to contact me for guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "Bo Watson", with a stylized, cursive script.

Senator Bo Watson, Chairman  
Senate Finance, Ways and Means Committee

CC: Mr. Mark Gwyn, Director, Tennessee Bureau of Investigation

## LEGISLATIVE CHARGE LETTER AND ATTACHMENT

### ATTACHMENT #1

Chairman Watson read the following language into the record:

*The Comptroller shall preform a comprehensive review of TBI's accounting and budgeting processes as well as a general review of how the agency should implement best practices in fiscal management to maximize their effectiveness. The Comptroller shall provide a written report to the Chairs of the House and Senate Finance committees on or before January 31, 2018. The report shall include clear and concise recommendations including, but not limited to...*

- *Grant submissions*
- *Accounting functions, such as the need for more allotment codes and*
- *Ability to execute work program*
- *Ability to properly follow budget process*
- *Review of fiscal staffing needs, or any other operational gaps/needs that might affect their fiscal fitness*
- *Process of determining budgetary priorities*
- *Agency's process for submitting proposed budget*
- *Agency's process for submitting needs to Legislature when items they request are not funded in Gov's proposed budget.*
- *How the agency deals with Contracts*
- *Analyzing potential "mission creep"*
- *Analyzing best funding formula for the future*
- *Determining who has oversight of the agency and who they must answer to when mistakes are made with funding*
- *Defining their fiscal relationship with F&A*
- *Defining their "independence"*

*The intent of this language is to allow the GA to have a better understanding of the changing needs of the agency. It is in no way meant to suggest wrongdoing or that the Legislature intends to move or alter the Agency's fiscal operations. It is also the intent of this GA that the Comptroller be prepared to present their findings to both Finance committees after the submission of the report.*

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	1
<b>LEGISLATIVE HISTORY</b>	11
Core Functions Created in 1951	11
Independent Agency in 1980	12
Duties and Expansion	15
Increased Responsibilities and Technology	17
Training and Coordination of Initiatives	18
TBI Divisions	21
Non-statutory Functions	22
Remaining Duties	23
<b>BUDGET AND FISCAL OPERATIONS</b>	25
Background	25
Analysis	33
Conclusions	37
Appendix I: Budget Timeline	47
Appendix II: TBI Administrative Services Unit Organization Chart	48
Appendix III: TBI Expenditure and Funding Summary	49
Appendix IV: TBI Fiscal Year Summaries	50
<b>PROCUREMENT OF THE PILATUS AIRPLANE</b>	55
Conclusions	58
Appendix V: Proprietary Procurement Flowchart	60
<b>GRANTS AND CONTRACTS ADMINISTRATION</b>	61
Conclusions	64
<b>STAFFING</b>	67
General Staffing	67
Fiscal Staffing	72
Internal Audit Staffing	73
<b>ANALYSIS OF INDEPENDENCE</b>	77
Unique Structure	77
Lack of Fiscal and Administrative Flexibility	90
Operational Independence and Accountability	91
<b>ENDNOTES</b>	93
<b>CONTRIBUTORS</b>	97

# Executive Summary



## EXECUTIVE SUMMARY

---

The 2017 Appropriations Act required the Comptroller's Office to perform a comprehensive review of the Tennessee Bureau of Investigation's (TBI) accounting and budget processes, as well as a general review of how TBI should implement best practices in fiscal management to maximize their effectiveness. A May 2017 letter from the chairman of the Senate Finance Committee provided additional detail as to the expectations for this comprehensive review.

### **This special report is divided into six sections:**

- a history of TBI;
- an analysis of TBI's budget and fiscal operations;
- an analysis of the procurement of the Pilatus airplane;
- an analysis of grants and contracts;
- an analysis of staffing; and
- an analysis of TBI's independence, both structural and fiscal.

The executive summary provides an overview of the comprehensive report and includes conclusions, recommendations, and policy considerations.

## LEGISLATIVE HISTORY

*This section provides a brief history of TBI. An analysis of potential mission creep is also included.*

The Tennessee Bureau of Investigation has expanded significantly in both size and function since its creation in 1951 as an office within the Department of Safety. While the bureau could originally investigate crimes only at the request of the District Attorney, over the past 66 years, the legislature has authorized TBI to initiate its own investigations into certain types of crime, such as organized crime, public misconduct and corruption, and human trafficking. TBI's duties have similarly become more sophisticated with advancements in technology and the internet, and the bureau has been tasked with DNA analysis and the maintenance of several centralized internet registries.

In addition, TBI has voluntarily taken on several duties not required by state law. In reviewing these duties, the Comptroller's Office found no evidence of mission creep, or expansion beyond TBI's core mission and functions. All of the bureau's non-statutory functions – including the retrieval of evidence from electronics, the operation of its two airplanes, and training provided by various TBI academies – appear to either directly support TBI's required functions or to be otherwise consistent with the bureau's mission.

*Please see the Legislative History section for more detailed information.*

## BUDGET AND FISCAL OPERATIONS

*This section provides a thorough and objective analysis of TBI's fiscal operations, including a history and analysis of the bureau's budget shortfalls and reliance on reserve funds for continued operations. Conclusions, recommendations, and policy considerations are also included.*

The state's annual budget estimates the revenue and expenditures required to run state government. The annual budget process requires that agencies work closely with F&A's Division of Budget to develop the estimates for the budget document. When an agency has identified a need for funding that is not met through



## EXECUTIVE SUMMARY

---

the state budget process, it may receive more funding directly from the General Assembly. Additionally, state agencies with reserve funds, such as TBI, may use such funds for their statutorily mandated purposes.

Based on an analysis of TBI's responsibilities in the state's budget process, the Comptroller's Office has concluded the following:

**Both TBI and F&A should commit to improve communication during the budget process to ensure TBI performs its financial activities effectively and efficiently and provides full disclosure of TBI's financial health and funding needs.**

The review of TBI's financial activities and communications with all key parties revealed that the bureau has monitored its budgeted activities to the extent it had access to the information. The state's budget and accounting processes are highly technical and structured and require expertise to ensure accuracy, transparency, and efficiency. To achieve these goals, all parties must prioritize communication and commit to full disclosure. Given that F&A is responsible for a critical part of the budget process, it is imperative that F&A provides state entities with all budget information and changes throughout the budget process.

**TBI's forecasted revenues and expenditures were not reflective of historical trends, exacerbating its budget shortfalls.**

TBI's expenditure estimates were lower than historical values and have been significantly less than actual expenditures, whereas expungement fee collections were overestimated. Both TBI and F&A should have detected and corrected material estimation errors during the budget process.

**TBI relied on its reserve funds for ongoing operations instead of requesting cost increases during the budget process.**

TBI has requested, and F&A has approved, authorization to use reserve funds for ongoing operations for the previous four fiscal years. The practice of using reserve funds for recurring operational expenses has avoided layoffs and operational gaps that would otherwise occur after factoring in the bureau's mandatory budget reductions and reversion targets. TBI management indicated that one reason for forgoing budget increase requests is that the bureau did not expect such requests would be approved through the Governor's budget process.

**Increased F&A oversight could threaten TBI's independence.**

Following its review of TBI's administrative and fiscal operations for fiscal year 2013 to fiscal year 2016, F&A recommended that the bureau's Fiscal Services Unit be absorbed within F&A's Centralized Accounting Division. F&A also recommended that TBI's single allotment code be divided into separate codes. However, based on the Comptroller's Office's review of TBI's statutory independence, such moves would impair the independence of the bureau's operations.

**TBI should continue its efforts to monitor and strengthen its revenue collection activities.**

Since fiscal year 2013, TBI's interdepartmental revenues have increased from \$2.5 million to \$6.2 million. Although such revenues have more than doubled, both TBI and the Comptroller's Office identified deficiencies in TBI's receipts of Sex Offender Registry fees. TBI should continue its efforts to monitor and strengthen its interdepartmental revenue collection activities by reviewing other fees and revenues collected by other departments.

*Please see the Budget and Fiscal Operations section for more detailed information.*

### PROCUREMENT OF THE PILATUS AIRPLANE

*This section provides a history and in-depth analysis of TBI's procurement of the Pilatus airplane. Conclusions and recommendations are also included.*

Beginning in 2014, TBI worked with F&A and the Central Procurement Office (CPO) to procure a Pilatus airplane. After the identification of budgetary shortfalls for fiscal years 2017 and 2018, TBI appeared before three legislative committees to discuss its operations and fiscal situation, including the potential purchase of the leased airplane. The General Assembly ultimately appropriated \$8 million (non-recurring) to TBI for the sole purpose of purchasing the Pilatus airplane. The amount paid for the airplane, including the payment due upon lease signing, lease payments paid by the state from February 2016 to August 2017, and the cost of purchase, totaled approximately \$10.2 million.

Based on an analysis of the procurement of the Pilatus airplane, the Comptroller's Office has concluded the following:

**TBI, F&A, and CPO should have proactively ensured cost efficiency throughout the procurement process.**

Although the state followed CPO procurement policies, it should have taken additional measures to maximize the effectiveness of the airplane's procurement. Directly purchasing the airplane at the outset might have been the most economical option; likewise, the state may have experienced savings by proceeding with the capital lease of the airplane rather than the operating lease and subsequent purchase. Additionally, even though the Fiscal Review Committee was not statutorily required to review either the operating lease or the airplane purchase, both transactions might have been of interest due to their unique nature.

**TBI should develop a policy that both addresses other agencies' usage of its airplane and establishes a mechanism for recouping costs from those agencies.**

Since TBI began using the Pilatus airplane in February 2016, other agencies have used the airplane to benefit their operations on four occasions, including the Tennessee Division of Forestry in November 2016 to support fire-fighting operations in Sevier County. TBI, however, neither requested nor received payment for the costs associated with the other agencies' plane usage.

*Please see the Procurement of the Pilatus Airplane section for more detailed information.*

### GRANTS AND CONTRACTS ADMINISTRATION

*This section provides an analysis of TBI's administration of grants and contracts. Conclusions and recommendations are also included.*

Grant and contract funding made up a significant portion of TBI's total funding. The federal portion of revenues came from federal grant awards. The interdepartmental funding of TBI's contract revenues came from its contracts with other state agencies to provide training and pre-employment psychological testing. TBI also received revenues from various fees and fines, including those revenues deemed "current services revenues," which are any fees the bureau collected that do not originate from federal agencies or other Tennessee state agencies, such as the \$10 fee for handgun sales background checks.

## EXECUTIVE SUMMARY

---

Based on an analysis of TBI's responsibilities in grant and contract administration, the Comptroller's Office has concluded the following:

**TBI collected federal revenue within industry standards.**

Based on the Comptroller's Office's review of federal grant awards and programs, TBI's collection of federal awards was in line with other states' investigative agencies.

**With minor exceptions, TBI administered its federal grants in compliance with rules, regulations, and best practice guidance.**

Based on the analysis of subrecipient monitoring documentation, the Comptroller's Office identified documented deficiencies in TBI's federal reporting. TBI remedied these deficiencies prior to the completion of this report.

**TBI should continue to monitor and strengthen its contract payment collection activities.**

Prior to fiscal year 2016, TBI did not ensure it collected revenue for training courses provided to employees of other state agencies by reconciling the training contracts, invoices, and interagency transfers. TBI has since begun reconciling payments to contracts.

**TBI does not currently charge local government agencies annual fees or fees for investigatory or forensic services.**

TBI provides investigation and forensic services at the request of local law enforcement agencies and local district attorneys but does not actively collect fees for its services. In response to the financial crisis of 2008 and 2009, TBI proposed collecting annual, size-based fees from local law enforcement agencies. Due to significant pushback from local governments, though, TBI ultimately did not pursue this proposal. Local governments instead agreed to remit forfeited municipal bond proceeds to TBI.

The standard process for state-level entities that provide services to local government entities is to obtain funding from the legislature to pay for such services and not charge the local governments. If TBI charged fees on a service basis, this could dissuade certain agencies from asking for the bureau's services, and an annual fee imposed on local agencies without a funding mechanism at the local level could negatively impact those local agencies' budgets.

*Please see the Grants and Contracts Administration section for more detailed information.*

## STAFFING

*This section examines staffing at TBI, both overall and within the Fiscal Services and Internal Audit units.*

As of June 30, 2017, TBI employed 554 individuals within its six divisions<sup>A</sup>. Of these 554 individuals, 226 served as special agents within its operating units. Each special agent handles a variety of cases, from criminal investigations to forensic analyses. TBI employed 42 individuals within its Administrative Services Division, including 10 full-time employees assigned to Fiscal Services.

---

<sup>A</sup> A seventh division, Criminal Justice Information Services, was added in July 2017.

## EXECUTIVE SUMMARY

---

Based on analyses of TBI's staffing and case reports, the Comptroller's Office has concluded the following:

**Since July 2012, TBI's staffing levels have risen at a slower pace than its caseload numbers.**

From fiscal year 2013 to fiscal year 2017, the average number of TBI special agent positions grew from 207 to 224, an 8.2 percent increase, while the number of cases opened rose from 3,547 to 4,541, a 28 percent increase.

**TBI filled vacant positions within a reasonable time frame.**

TBI filled 50 percent of vacant positions within 6 months. For many vacancies that took longer than 12 months to fill, the positions were either reclassified or were special agent positions. TBI only hires for special agent positions approximately every 18 months.

**With the assistance of independent law enforcement agencies, TBI should conduct studies regarding its use of temporary staff and the overtime of existing staff to determine whether increased permanent positions would benefit TBI in the long term.**

TBI relies on 120-day staff and other temporary staff in both fiscal and operational areas. Additionally, TBI utilizes overtime to execute its operational goals. TBI has not conducted a study to determine if an increase in permanent positions would be more efficient than these staffing practices.

**By using two temporary staff, the Fiscal Services Unit had sufficient resources to fulfill its responsibilities.<sup>B</sup>**

Based on reviews of personnel files and staffing reports, the Comptroller's Office did not identify any potential problems with vacancies and found the employees' qualifications for their positions were reasonable. Converting the two temporary positions to permanent, full-time positions would be a valuable addition to the Fiscal Services Unit, especially if one of the full-time positions dedicated a significant portion of his or her time to budget monitoring and communication with F&A's Divisions of Budget and Accounts.

**Increasing the number of internal audit staff could add value to TBI.**

Since the Internal Audit Director has no other staff, her audit objectives were limited to the highest assessed risks. She was therefore unable to devote resources to detecting and preventing other operational inefficiencies and ineffectiveness, including in administrative operations. Although the small size of TBI's internal audit staff is consistent with other Tennessee state agencies of similar overall staff size and budget, the Comptroller's Office believes that, given the unique risks of law enforcement, the bureau could benefit from increased internal audit resources.

*Please see the Staffing section for more detailed information.*

---

<sup>B</sup> The number of permanent Fiscal Services positions was constant, at 10 positions, for fiscal year 2013 through fiscal year 2017.

### ANALYSIS OF INDEPENDENCE

*This section provides an in-depth analysis of TBI's independence, both structural and fiscal. Policy considerations are also included.*

**TBI is a uniquely independent, cabinet-level agency that does not clearly belong to a single branch of government.**

Following scandals surrounding a former Governor in the late 1970s, TBI was separated from the Department of Safety and established as an independent agency in 1980. Consequently, TBI was restructured as a unique state department. TBI appears to be a cabinet-level agency on par with the various executive departments and constitutional offices, such as the Department of Education or the Comptroller's Office. Unlike other state departments, however, TBI does not clearly belong to the executive, legislative, or judicial branches of government.

Although the Governor appoints the TBI Director, he or she does not do so directly, as with executive commissioners who serve at the pleasure of the Governor. Instead, an independent five-member nominating commission, composed of four legislative appointees and the Executive Director of the District Attorneys General Conference, submits three candidates for consideration. A review of authorizing legislation for over 75 state entities in Tennessee found that none of the entities reviewed selected leadership positions in the same manner as TBI.

The TBI Director can be removed only following a conviction in court for certain criminal offenses. In addition, TBI is the only cabinet-level department with a gubernatorially appointed agency head where:

- the agency head serves a statutorily specified six-year term, which may overlap with different Governors;
- the Governor does not appear to have the power to restructure the department or transfer functions to other state departments; and
- the Governor has no direct power to remove the agency head or appoint an interim agency head in case of vacancy.

For these reasons, TBI is not clearly an executive agency; likewise, it does not fall cleanly under the legislative or judicial branches. As a result, the bureau is more protected from potential corruption than all other cabinet-level agencies in any branch of government, and the bureau has the ability to investigate any state official or agency with far fewer conflicts of interest or political pressures that could compromise the integrity of its investigations.

Because of TBI's "undefined" position in state government, laws or rules that apply to broad categories of state officials or agencies may not extend to TBI. For example, TBI is not explicitly covered in law by the Executive Internal Auditor position created in 2016, and TBI management believed the bureau was exempt from the requirements. Management felt that the oversight and resources of the position would benefit TBI, however, and so voluntarily "opted in."

Despite TBI's independence, it is not among the various legislative and judicial agencies that are granted explicit statutory flexibility regarding executive branch initiatives. Executive agencies function as a unit:

## EXECUTIVE SUMMARY

---

F&A directly oversees their funding, and the agencies must follow uniform policies regarding procurement and staffing:

- executive agencies cannot transfer funding within or between divisions without the approval of F&A and the Governor;
- executive agencies must follow all policies and procedures promulgated by the Central Procurement Office (CPO) within the Department of General Services, and cannot enter into contracts without approval from CPO and F&A; and
- executive agencies must follow Department of Human Resources policies on employee hiring, firing, performance evaluations, and raises.

In many cases, exempt legislative and judicial agencies can “opt in” but are not required to adhere to executive branch policies and procedures. TBI is not among the exempt agencies, and its current lack of explicit statutory flexibility may be inconsistent with its setup in state law and potentially its independence.

### **The General Assembly may wish to add the TBI Director to the list of high-level state officials required to disclose potential conflicts of interest.**

Due to TBI’s “undefined” position in state law, the TBI Director appears to be the only cabinet-level agency head not required by law to disclose conflicts of interest. In practice, the Director has no forms on record on the Tennessee Ethics Commission’s website.

### **The General Assembly may wish to consider granting TBI some or all of the statutory flexibilities regarding funding, procurement, and personnel that are generally given to legislative and judicial agencies.**

It is unclear whether TBI is a legislative, judicial, or executive agency, or removed from all three branches — therefore, given the bureau’s independence, it may be appropriate for TBI to be likewise exempted from these sections of state law.

### **Though operationally independent, TBI is accountable to nearly all of the same forces as other state departments.**

TBI’s unique role in state government requires a balance between independence and accountability. The bureau requires a degree of independence, as it has investigated officials in all three branches of government and may do so in the future. Despite TBI’s independence, multiple checks and balances exist to ensure that TBI is fulfilling its duties and provide opportunities for corrective action, if necessary.

*Please see the Analysis of Independence section for more detailed information.*

## OVERVIEW OF RESULTS

This special report is divided into six sections, and conclusions, recommendations, and policy considerations are presented below by report section and page reference.

<b>Legislative History</b>	<b>Page</b>
TBI’s core functions were created in 1951.	11
TBI became an independent agency in 1980.	12
TBI’s duties and independent investigative jurisdiction have expanded over the years.	15

## EXECUTIVE SUMMARY

---

TBI's responsibilities have expanded following advancements in technology and the internet.	17
In recent years, TBI has been directed to provide training to local law enforcement or other agencies.	18
TBI has seven divisions, three of which are created in state law.	21
TBI's four remaining divisions provide general support services or serve as an umbrella for assorted statutory duties.	22
Many of TBI's non-statutory functions are incidental to and in direct support of its required duties.	22
TBI's remaining functions appear consistent with its mission and duties.	23

### Budget and Fiscal Operations

Both TBI and the Department of Finance and Administration (F&A) should commit to improve communication during the budget process to ensure the bureau performs its financial activities effectively and efficiently and provides full disclosure of its financial health and funding needs.	37
TBI's forecasted revenues and expenditures were not reflective of historical trends, exacerbating its budget shortfalls.	39
TBI relied on its reserve funds for ongoing operations instead of requesting cost increases during the budget process.	42
Increased F&A oversight could threaten TBI's independence.	44
TBI should continue its efforts to monitor and strengthen its revenue collection activities.	45

### Procurement of the Pilatus Airplane

TBI, F&A, and CPO should have proactively ensured cost efficiency throughout the procurement process.	58
TBI should develop a policy that both addresses other agencies' usages of its airplane and establishes a mechanism for recouping costs from those agencies.	59

### Grants and Contracts Administration

TBI collected federal revenue within industry standards.	64
With minor exceptions, TBI administered its federal grants in compliance with rules, regulations, and best practice guidance.	64



TBI should continue to monitor and strengthen its contract payment collection activities. 64

TBI does not currently charge local government agencies annual fees or fees for investigatory or forensic services. 64

### **Staffing**

Since July 2012, TBI's staffing levels have risen at a slower pace than its caseload numbers. 69

TBI filled vacant positions within a reasonable time frame. 70

With the assistance of independent law enforcement agencies, TBI should conduct studies regarding its use of temporary staff and the overtime of existing staff to determine whether increased permanent positions would benefit the bureau in the long term. 70

By using two temporary staff, the Fiscal Services Unit had sufficient resources to fulfill its responsibilities.<sup>c</sup> 72

Increasing the number of internal audit staff could add value to TBI. 73

### **Analysis of Independence**

TBI is a uniquely independent cabinet-level agency that does not clearly belong to a single branch of government. 77

The General Assembly may wish to consider granting TBI some or all of the statutory flexibilities regarding funding, procurement, and personnel that are generally given to legislative and judicial agencies. 77

The General Assembly may wish to add the TBI Director to the list of high-level state officials required to disclose potential conflicts of interest. 79

Though operationally independent, TBI is accountable to nearly all of the same forces as other state departments. 91

---

<sup>c</sup> The number of permanent Fiscal Services positions was constant, at 10 positions, for fiscal year 2013 through 2017.



# Legislative History



### Legislative History

The Tennessee Bureau of Investigation (TBI) was created in 1951 as an office within the Department of Safety. Over the past 66 years, TBI has grown from a small division with a statutory maximum of 18 investigators to an independent agency with over 500 employees. Although TBI's original core function—assisting local law enforcement and District Attorneys—remains a central part of its operations, the bureau has significantly expanded in both size and function. While it is not always possible to determine which duties TBI has requested legislative authorization to undertake and which duties have originated outside of the bureau, many additional responsibilities have nevertheless been written into state law over this period:

- **Since the creation of TBI's core functions in 1951, the legislature has authorized TBI to initiate its own investigations regarding certain types of crime.** TBI's predecessor, the Tennessee Bureau of Criminal Identification within the Department of Safety, could only investigate crimes at the request of the District Attorney. Over the years, TBI has been authorized in law to initiate its own investigations into organized crime (1970), public misconduct and corruption (1995), and domestic terrorism (2002), among other types of crime.
- **As technology has advanced, TBI's statutory duties have grown.** TBI's forensic duties have become more sophisticated with the advent and growth of DNA analysis. Similarly, with advancements in the internet, TBI has been directed to collect criminal justice statistics; coordinate and share information with other local, state, and federal law enforcement agencies; and maintain several centralized internet registries.
- **In recent years, TBI has been directed to provide training to local law enforcement and other state agencies.** In 2010, the legislature encouraged TBI to train local law enforcement about an alert and recovery process for missing senior citizens. In 2015, the legislature required TBI to provide human trafficking training to state and local entities.

### TBI's core functions were created in 1951.

TBI's predecessor, the Tennessee Bureau of Criminal Identification (TBCI), was created in 1951 by Public Chapter 173. The bureau was housed as an office within the Department of Safety, with a director in charge of the two newly created divisions, the Field Division and the Laboratory Division. According to TBI's website, the bureau was created to help support local law enforcement agencies, often in rural areas, that did not have the staff or equipment to investigate complex or serious crimes:

The Tennessee Bureau of Investigation was born as a result of a highly-publicized murder in Greene County in December of 1949. The heinous crime aroused the emotions of citizens throughout the region. In an address to the Tennessee Press Association in January of 1951, John M. Jones, Sr., publisher of the Greeneville Sun, called for the creation of an unbiased state agency to assist local law enforcement in the investigation of serious crimes.

On March 14, 1951, Governor Gordon Browning signed a bill into law establishing the Tennessee Bureau of Criminal Identification (TBCI) as the "plainclothes" division of the Department of Safety.<sup>1</sup>

In addition to field investigations, the Laboratory Division became the state's central repository of fingerprints and was tasked with coordinating exchanges with the Federal Bureau of Investigation and other state and local agencies in Tennessee. As originally created, TBCI was authorized to investigate crimes only at the request of the District Attorney, and could not initiate investigations on its own.<sup>2</sup> Thus, in its early stages, TBCI was fairly limited in power.

### **TBI became an independent agency in 1980.**

Following the scandals surrounding former Governor Ray Blanton and the sale of pardons to state inmates, the Tennessee Bureau of Criminal Identification was separated from the Department of Safety and established as an independent agency in 1980. The legislature specified that the newly created Tennessee Bureau of Investigation was to be “a separate department of state government,” and created an appointment process for the TBI Director that required input from all three branches of government, rather than a direct selection by the Governor. Furthermore, the law did not give the Governor or the legislature the power to remove the TBI Director; instead, the Director could only be ousted following a criminal conviction of certain offenses. For more information on the Director’s appointment and removal process, please see the Analysis of Independence section.

The law did not change TBI’s core functions — assisting District Attorneys and local law enforcement — but made several administrative changes, such as renaming the Field Division and the Laboratory Division as their current-day equivalents, the Criminal Investigation Division and the Forensic Services Division.<sup>3</sup>

The law also added several protections for the bureau and broadened its power to bring investigations to court. During the Blanton administration’s “surplus car scandal,” TBCI had reportedly been involved in the investigation of several high-level state officials for selling the state’s surplus cars to political associates. The Governor’s Office purportedly obtained the bureau’s investigation files and passed them to defense attorneys for the state officials who were being prosecuted.<sup>4,5</sup> Arzo Carson, the bureau’s director at that time, told reporters that such situations put the bureau “in such a condition that it couldn’t really carry out its functions properly.”<sup>6</sup>

Although the state constitution gives the Governor the power to obtain any information from officers in the executive branch, the law attempted to add a measure of accountability to deter similar situations and create a permanent record of potentially unethical requests.<sup>D, 7</sup> The law required that any requests by the Governor for TBI’s records be put in writing and accompanied by an explanation regarding the request. Such requests had to be personally signed by the Governor and not a designee.<sup>E, 8</sup>

Finally, the law granted TBI additional powers regarding the prosecution of its investigations by outlining a process for TBI to bring an investigation to court without the cooperation of the District Attorney. Described as a “safety valve” or “bypass valve,” the law specified that if the District Attorney chose not to prosecute a case, TBI could then go before the grand jury and seek a presentment. If the grand jury returned a true bill, the TBI Director could petition for the appointment of a District Attorney Pro Tempore to prosecute the case.<sup>9,10</sup> Current TBI staff is unaware of any instances of using this authority to date.<sup>11</sup>

News coverage reported that reorganizations of TBI were partly intended to allow the bureau to better investigate white-collar crime and public corruption. “We hope this will go a long way toward ridding the state of this type of crime that seems to be so prevalent in the country,” said Arzo Carson, the bureau’s director at that time.<sup>12</sup>

---

<sup>D</sup> It is unclear whether the TBI Director is an executive officer and, accordingly, whether the constitution grants the Governor the power to obtain any requested information from the Director. For more information on TBI’s position in state government, please see the Analysis of Independence section.

<sup>E</sup> This requirement to request files in writing was extended to the Chief Justice of the Tennessee Supreme Court in 2004, and the House and Senate Speakers in 2011. Tennessee Public Acts, 103rd General Assembly, 2004 regular session, Public Chapter 528; Tennessee Public Acts, 107th General Assembly, 2011 regular session, Public Chapter 395.

### **Creating the Tennessee Bureau of Investigation.**

TBI's creation in 1980 took a winding path, with multiple bills, two Attorney General opinions, a veto by Governor Lamar Alexander, and a planned House override.

At least five separate bills were introduced that legislative session to separate TBI from the Department of Safety: various legislators ran four bills, and minority party members carried a fifth bill for Governor Alexander. Four of the bills were introduced and considered in committee in 1979, but none were passed by the legislature until the following year. The Governor's proposal was introduced in 1980.

Discussion on the floor alluded to the scandals of the Blanton Administration. One sponsor said that his bill was intended to prevent TBI from being a "political football." The sponsor of another bill asserted that in past years, TBI's top narcotic agents had been serving as chauffeurs for Gene Blanton, Governor Blanton's younger brother. Members of both parties expressed support for separating TBI from the Department of Safety and making the bureau an independent agency.

Opinions varied on how to structure TBI. Three of the bills, including the Governor's proposal, created TBI as a separate agency, while the remaining two bills made TBI an arm of the Attorney General's Office. Of particular contention was the appointment and removal process for the TBI Director: the Governor wanted the authority to directly appoint and remove the Director; likewise, the legislature wanted a role in hiring and sole responsibility for firing.

### **The Governor's bill and both proposals to move TBI to the Attorney General's Office were never considered on the floor.**

The Governor's bill died in the House Judiciary Committee, and was withdrawn from the Senate. The bill created TBI as "a separate and independent agency of state government," but gave the Governor the power to directly appoint the TBI Director, who was to serve a four-year term concurrent with the Governor's. The Governor also had the ability to remove the Director for cause.

Two similar bills transferred TBI from the Department of Safety to the Attorney General's Office, and gave the Attorney General the power to appoint and remove the TBI Director, as well as set the Director's salary. Both bills passed out of committee in 1979; one was later withdrawn, and the other was subsequently deferred on the floor and never considered.

### **One of the legislature's proposals passed, but was vetoed by the Governor.**

One of the legislature's proposals was passed by both houses in late January 1980, following much debate in the Senate and multiple calls for order. The bill required the legislature to confirm the Governor's appointment of the TBI Director, and gave the Senate, rather than the Governor, the power to remove the Director with a two-thirds vote. Regarding the issue of the Director's removal, the Senate Speaker said, "And what we're trying to do now is create a TBI that will not be under the pressure of the Governor's Office. If the Governor has a right to fire, there's pressure."

The bill also granted the Senate Speaker the ability to call a special session, if necessary, to vote on the Director's removal. One Senator said this provision was "as thoroughly unconstitutional as a \$3 bill is illegal," and requested an Attorney General opinion.

The Attorney General opined that the constitutionality of the first provision, legislative confirmation of the Governor's appointment, was uncertain, and that the second two provisions regarding the TBI Director's removal were unconstitutional. While the state constitution did not explicitly state whether legislative confirmation of the Governor's appointment was permissible, the Senate could not remove

an officer appointed by the Governor, and the constitution did not grant the Senate Speaker the power to call a special session. Citing the Attorney General opinion, Governor Alexander vetoed the bill.

Alexander stated that this was only his fourth veto, and that his veto “has been and will be used rarely.” He said that “the bill’s provision for legislative confirmation and Senate removal of the TBI director is awkward, unconstitutional, unnecessary, and bad policy” and that even if the Senate Speaker’s ability to call a special session to vote on the Director’s removal was written out of the bill, the provision allowing the Senate to oust the Director with a two-thirds vote was “a weird removal procedure which the Attorney General says is also unconstitutional.”

Alexander continued that there was no need for legislative involvement in selecting and removing the Director, and that there were “other and better ways” to deal with possible corruption:

All of this effort presumably is to reach the problem of what to do if the Governor’s appointee, the TBI Director, turns sour and needs to be fired. The Constitution provides other and better ways to deal with the problem. The legislators can investigate the Director, cut off his appropriations, embarrass the Governor, and appeal to the public. If the Governor has turned sour along with his TBI Director, the legislators can try to defeat the Governor at the next election. They can impeach the Governor and remove him in office. The Constitution could have placed the Legislature in charge of everything. It did not.

Following the veto, the House sponsors immediately filed notice to override the veto.

**The legislature’s remaining proposal was a compromise with all parties, and ultimately passed into law.**

The override never took place. Shortly after the veto, the legislature’s fourth bill, which had not passed out of committee the previous year, was considered. “As most of you know, there’s been a lot of controversy over the TBI and making it a separate department of government,” one sponsor said on the House floor, before stating that the bill was a compromise between both parties and the Governor.

The TBI Director’s four-year term, as proposed by the Governor, was finalized as the six-year term favored by the legislature. The bill removed all three provisions that had been questioned by the Attorney General. Rather than the legislature confirming the Governor’s appointment for TBI Director, the bill instead created a nominating commission that would suggest three names for the Governor’s selection. The nominating commission was to be composed of the two Speakers, the two minority leaders, and the Executive Director of the District Attorneys General Conference. The bill also removed the Senate’s ability to remove the Director with a two-thirds vote, and the Senate Speaker’s power to call a special session to do so.

A second Attorney General opinion stated that it was unconstitutional for legislators to serve on the nominating commission for the TBI Director, as the constitution specified that “no Senator or Representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the Executive or the General Assembly.”

In response, a Senate amendment changed the composition of the nominating commission. Rather than directly serving on the commission, the Speakers were to each nominate two members from different political parties, to be confirmed by the respective houses. The House concurred in the amendment, and the final version of the bill passed as amended on March 26, 1980. The Governor signed the bill into law on March 27, 1980.

**Possibly because a compromise was not reached, no provision was included for removing the TBI Director.**

From the beginning, the legislature and the Governor held differing opinions on the hiring and firing process for the TBI Director. The legislature's original proposal allowed the Director to be removed only by a two-thirds vote of the Senate; in response, the Governor vetoed the bill. The Governor's proposal to directly appoint and remove the Director was never considered on the floor.

Possibly because no compromise could be reached, no provision was ultimately placed in law for the removal of the Director. As passed, neither the legislature nor the Governor could remove the Director. Instead, a provision for "judicial removal," as termed by one sponsor, was included in the final bill, so that the Director could only be removed following a conviction of certain criminal offenses.

The outcome may not have been satisfactory to all parties. One Senator thought that the Governor should be able to remove the Director for cause, and that, otherwise, "there would be a long, drawn out court battle and you'd have a TBI Director just sitting there."

The requirements regarding the TBI Director's removal have not changed since their original passage in 1980.

Source: Tennessee House Journal, 91st General Assembly, 1979-80 regular sessions, pp. 142, 575, 585, 588, 1,777, 1,896, 2,146, 2,177, 2,184, 2,224, 2,316, 2,498-2,501, 2,751, 2,834-2,839, 3,455-3,459, 3,562, 4,157, 4,164, 4,246; Tennessee Senate Journal, 91st General Assembly, 1979-80 regular sessions, pp. 1,879, 1,905-6, 2,485, 2,960, 3,016-3,023, 3,039; 91st Tennessee General Assembly, Senate floor discussion on Senate Bill 1046, April 11, 1979 and January 23, 1980; 91st Tennessee General Assembly, House floor discussion on House Bill 1294, March 3, 1980; 91st Tennessee General Assembly, 1980 regular session, Senate Bill 1625/House Bill 1799, Relative to the creation of the Tennessee Bureau of Investigation, its powers and duties; 91st Tennessee General Assembly, 1980 regular session, Summary of General Bills, Senate Bill 532/House Bill 1250, February 28, 1980; 91st Tennessee General Assembly, 1979-80 regular sessions, Senate Bill 459/House Bill 1195, Relative to the Tennessee Bureau of Criminal Identification; 91st Tennessee General Assembly, 1979-80 regular sessions, Senate Bill 1046/House Bill 357, Relative to the creation of the Tennessee Bureau of Investigation; Tennessee Office of the Attorney General, Op. No. 80-78, February 7, 1980; Tennessee Office of the Attorney General, Op. No. 80-134A, March 4, 1980; Joel Kaplan, "Leech: Governor Alone Can Fire His Appointees," *The Tennessean*, February 8, 1980, p. 13; *Tennessee Public Acts*, 91st General Assembly, 1980 regular session, Public Chapter 636.

**TBI's duties and independent investigative jurisdiction have expanded over the years.**

Although the original Tennessee Bureau of Investigation could help in the investigation of any crime, it could only do so upon the request of a District Attorney. In 1957, six years after the bureau's creation, the General Assembly authorized the bureau to initiate investigations regarding certain drug crimes, fugitives from justice, and employees or prospective employees of the Department of Safety "independently," or without a request from the District Attorney.<sup>13</sup>

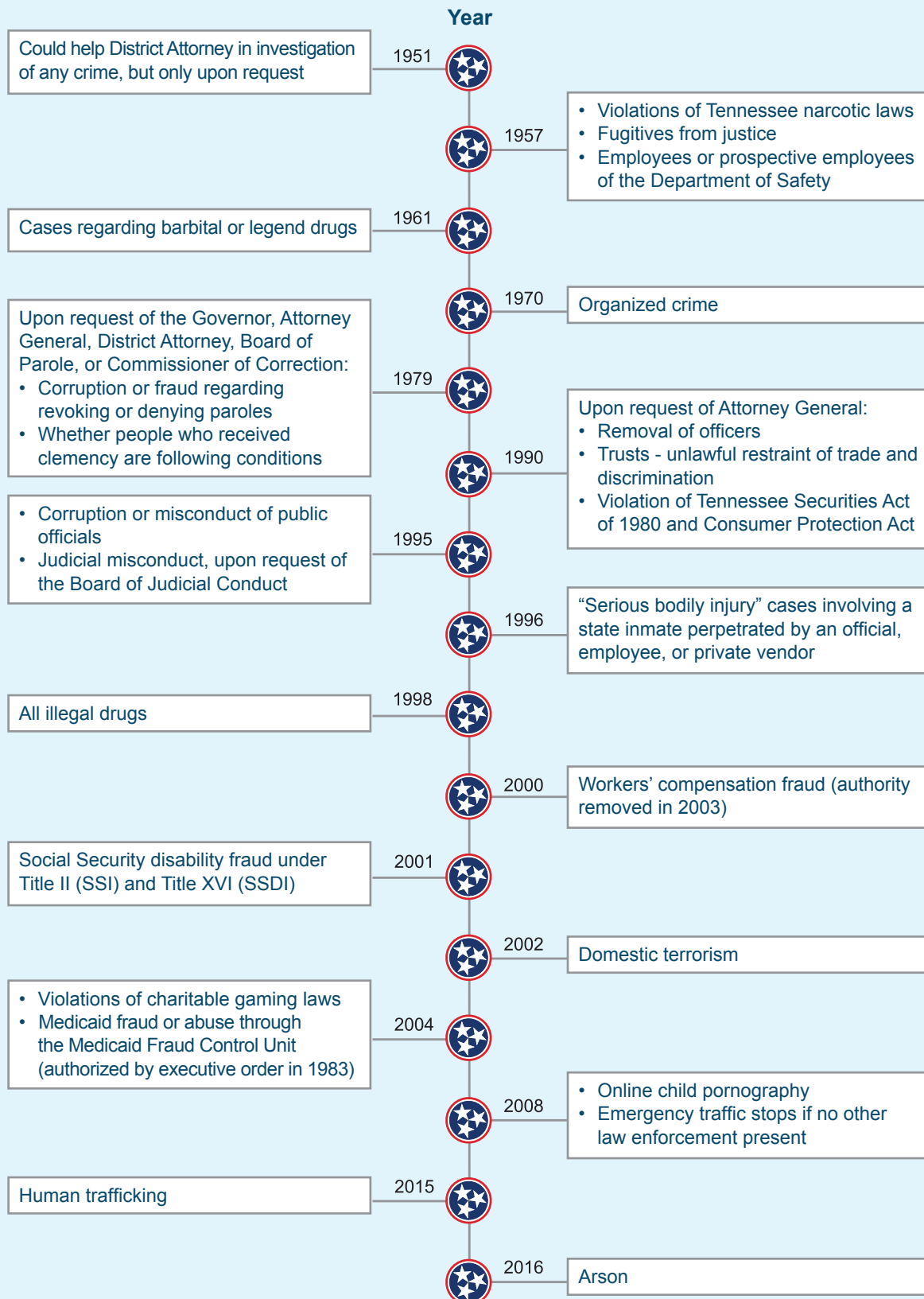
Over the years, the legislature continued to broaden TBI's independent investigative authority. In 1970, the bureau was authorized to investigate organized crime without a request from the District Attorney; in 1995, TBI was authorized to initiate its own investigations into public corruption and misconduct.<sup>14</sup> As technology has advanced, TBI has been further authorized to investigate digital crimes, such as online child pornography.<sup>15</sup>

Additionally, in 1990, the law was amended to allow TBI to assist the Attorney General with certain cases upon request.<sup>16</sup> Although this provision was proposed in 1980 when TBI was separated from the Department of Safety, it did not pass into law at the time.<sup>17</sup>

The mix of TBI's investigations has changed over the years as TBI has undertaken more investigations on its own initiative. Currently, about 43 percent of TBI's investigations are done at the request of the District Attorney. The remaining 57 percent are investigations TBI has initiated on its own.



**Expansion of TBI's duties and independent investigative jurisdiction, 1951-2016.**



Source: *Tennessee Public Acts*, 77th General Assembly, 1951 regular session, Public Chapter 173; *Tennessee Public Acts*, 80th General Assembly, 1957 regular session, Public Chapter 216; *Tennessee Public Acts*, 82nd General Assembly, 1961 regular session, Public Chapter 297; *Tennessee Public Acts*, 86th General Assembly, 1970 regular session, Public Chapter 362; *Tennessee Public Acts*, 91st General Assembly, 1979 regular session, Public Chapter 359; *Tennessee Public Acts*, 99th General Assembly, 1995 regular session, Public Chapter 208; *Tennessee Public Acts*, 99th General Assembly, 1995 regular session, Public Chapter 469; *Tennessee Public Acts*, 99th General Assembly, 1996 regular session, Public Chapter 1066; *Tennessee Public Acts*, 100th General Assembly, 1998 regular session, Public Chapter 1069; *Tennessee Public Acts*, 101st General Assembly, 2000 regular session, Public Chapter 852; *Tennessee Public Acts*, 102nd General Assembly, 2001 regular session, Public Chapter 313; *Tennessee Public Acts*, 102nd General Assembly, 2002 regular session, Public Chapter 849; *Tennessee Public Acts*, 103rd General Assembly, 2003 regular session, Public Chapter 355; *Tennessee Public Acts*, 103rd General Assembly, 2004 regular session, Public Chapter 476; *Tennessee Public Acts*, 103rd General Assembly, 2004 regular session, Public Chapter 673; Governor Lamar Alexander, Executive Order 47, An order transferring the responsibility for investigating fraud in the Medicaid program from the Department of Public Health and vesting it in the Tennessee Bureau of Investigation, February 11, 1983; *Tennessee Public Acts*, 105th General Assembly, 2008 regular session, Public Chapter 988; *Tennessee Public Acts*, 105th General Assembly, 2008 regular session, Public Chapter 1039; *Tennessee Public Acts*, 109th General Assembly, 2015 regular session, Public Chapter 503; *Tennessee Public Acts*, 109th General Assembly, 2016 regular session, Public Chapter 1041.

### **TBI's responsibilities have expanded following advancements in technology and the internet.**

As technology has advanced, TBI's legislatively mandated forensic work has become more sophisticated, and the bureau has been tasked with the collection of criminal justice statistics; sharing information with other local, state, and federal law enforcement agencies; and maintaining several centralized online registries.

In 1983, the legislature authorized TBI to use drug dogs.<sup>18</sup> In 1991, TBI began doing DNA analysis and was tasked with maintaining a centralized database of DNA profiles.<sup>19</sup> Over the years, laws have broadened requirements for the collection of DNA evidence; in 2007, for example, the legislature required that DNA evidence be collected for all persons arrested in conjunction with a violent felony.<sup>20</sup>

Following advances in the internet, the legislature designated TBI as the state's central repository for criminal justice statistics and information. The Tennessee Internet Criminal Information Center was created in 1997 as a centralized location for several online registries and to "provide easily accessible information to members of the public concerning persons of interest to the public safety and welfare."<sup>21</sup> The same year, the Criminal Intelligence Unit was created in law within the Criminal Investigation Division and directed to collect information on gang activity and disseminate it to local, state, and federal law enforcement agencies.<sup>22</sup> Additionally:

- TBI began keeping centralized records of registered sex offenders in 1985, and in 1997, was tasked with posting a list to the internet.<sup>23</sup>
- In 1997, TBI was given responsibility for two additional registries: the Out-of-State Parole and Probation Supervision Registry (transferred to the then-Board of Probation and Parole in 2011) and the Tennessee Missing Children Registry.<sup>24</sup>
- In 1998, the legislature instructed TBI to create and maintain the criminal offender and pretrial diversion database to track offenders applying for and completing pretrial or judicial diversion.<sup>25</sup>
- Also in 1998, legislation required TBI to quickly perform criminal history checks over the phone — so-called "Instant Checks" — for gun dealers on prospective gun buyers. TBI was authorized to charge \$10 for each request; previously, local police forces had 15 days to perform such investigations for a \$10 fee.<sup>26,27</sup>
- In 2005, TBI was directed to create the Methamphetamine Registry as a centralized list of people who had been convicted of meth-related offenses.<sup>28</sup> In 2014, the registry became the Drug Offender Registry to include offenses related to opiates and other Schedule II controlled substances.<sup>29</sup>
- The legislature created the Blue Alert System within TBI in 2011 to send an alert when police officers are missing, injured, or killed in the line of duty and the suspect is at large.<sup>30</sup>
- In 2015, TBI was tasked with creating and putting the Animal Abuser Registry on the internet.<sup>31</sup>



## LEGISLATIVE HISTORY

---

TBI has also been mandated by the legislature to create and maintain several hotlines, including the Tennessee Internet Criminal Information Center Hotline, to allow members of the public to check whether a person is on the Sex Offender Registry (created in 1997 and amended in 2004); the Tennessee Instant Check phone number, operated 7 days a week, 362 days a year, to allow gun dealers to quickly check the backgrounds of prospective gun buyers (1998); and the human trafficking hotline to report suspected or known human trafficking (2011).<sup>32</sup>

### **In recent years, TBI has been directed to provide training to local law enforcement or other agencies.**

In addition to its investigatory and forensic duties, TBI has been tasked with providing various types of training in recent years and serving as a coordinator for local law enforcement and criminal justice agencies:

- in 2010, TBI was encouraged by the legislature to train local law enforcement about an alert and recovery process for missing senior citizens;<sup>33</sup>
- in 2014, TBI was instructed to prepare an inventory of all rape kits held by local law enforcement and report to the legislature by September 2014;<sup>34</sup>
- also in 2014, TBI was required to survey law enforcement and the courts on how to interface multiple computer systems so that police could serve court documents while making arrests;<sup>35</sup> and
- in 2015, TBI was instructed to train law enforcement and various agencies on human trafficking.<sup>36</sup> Additional agencies were added in 2016 to the list of entities required to receive training.<sup>37</sup>

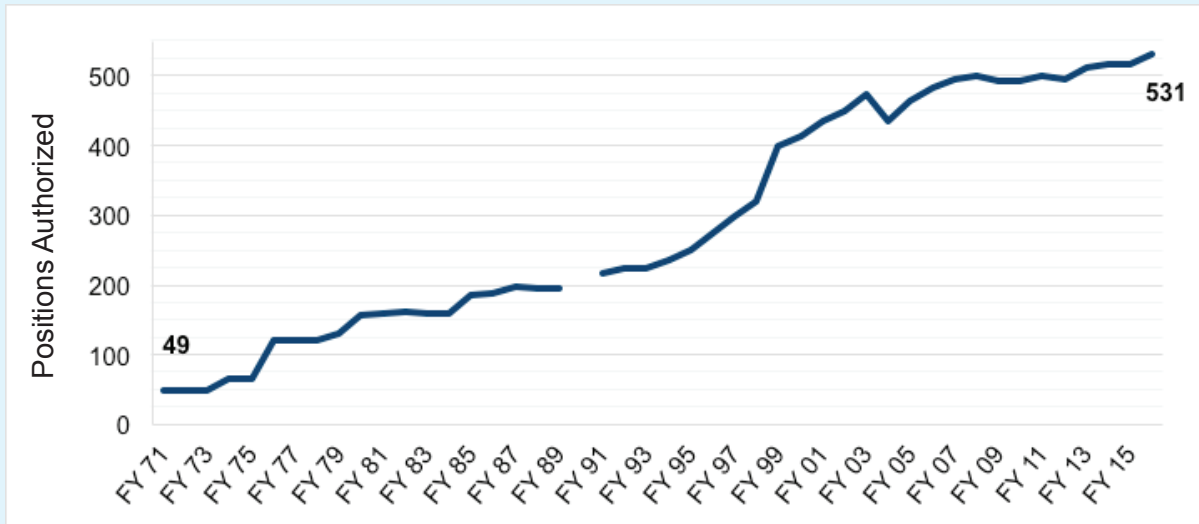
### **TBI's staffing and funding have grown substantially since its early years.**

When the Tennessee Bureau of Criminal Identification was created in 1951, the law specified that the Director could hire no more than 18 employees in the Field Division (now the Criminal Investigation Division). The cap was lifted in 1957, and TBI staffing has grown from the limited number of agents in 1951 to 531 total staff in fiscal year 2016.

Over the years, several new divisions have been created in statute within TBI, and staffing has adjusted accordingly:

- **The Criminal Intelligence Unit** was created within the Criminal Investigation Division in 1997 to collect and share information on gang activity with other law enforcement agencies.
- **The Narcotics Investigation Division** was created in 1998 with "original jurisdiction over the investigation of all drugs" as a third division of TBI. In addition to the agents already assigned to drug cases, 16 new agent positions were created, with no maximum number of positions for the division set in statute.
- **The Medicaid Fraud Control Unit** was created by executive order and placed within TBI in 1983; the unit was codified in state law in 2004.
- **Four additional positions** were authorized through 2015 legislation to provide human trafficking training.

### Tennessee Bureau of Investigation, Total Positions Authorized, Fiscal Years 1971 to 2016.

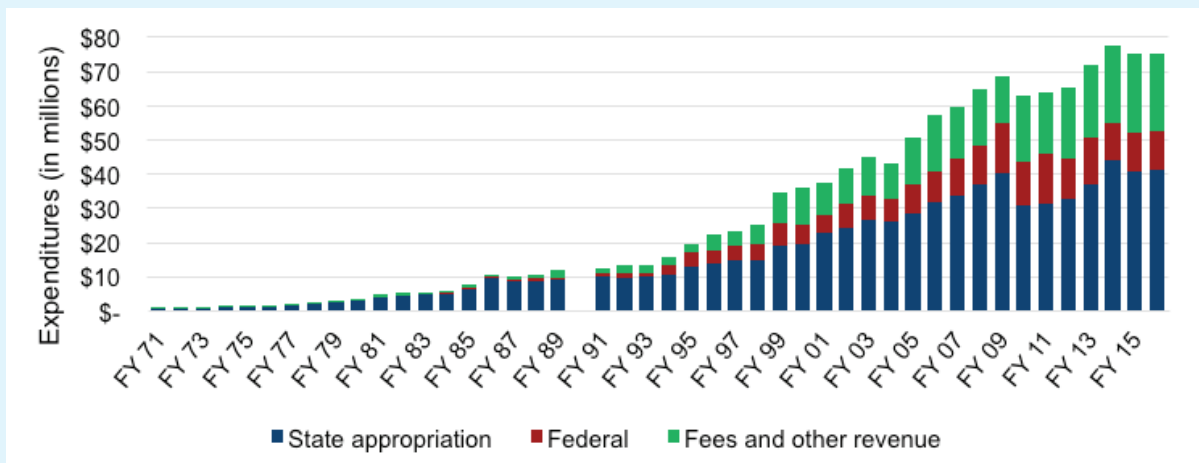


Note: Data was not available for fiscal year 1990.

The mix of TBI's funding has changed as the bureau has grown. In fiscal year 1971, the first year information is available, the bureau received no federal funding, and depended almost entirely on state appropriation (97.5 percent of total expenditures). TBI began receiving federal revenue in fiscal year 1984, presumably in conjunction with the Medicaid Fraud Control Unit, and federal funding has continued to grow since. Similarly, TBI's fee collections increased dramatically in fiscal year 1976, and TBI has helped generate its own funding more and more as existing fees are raised and new fees are created.

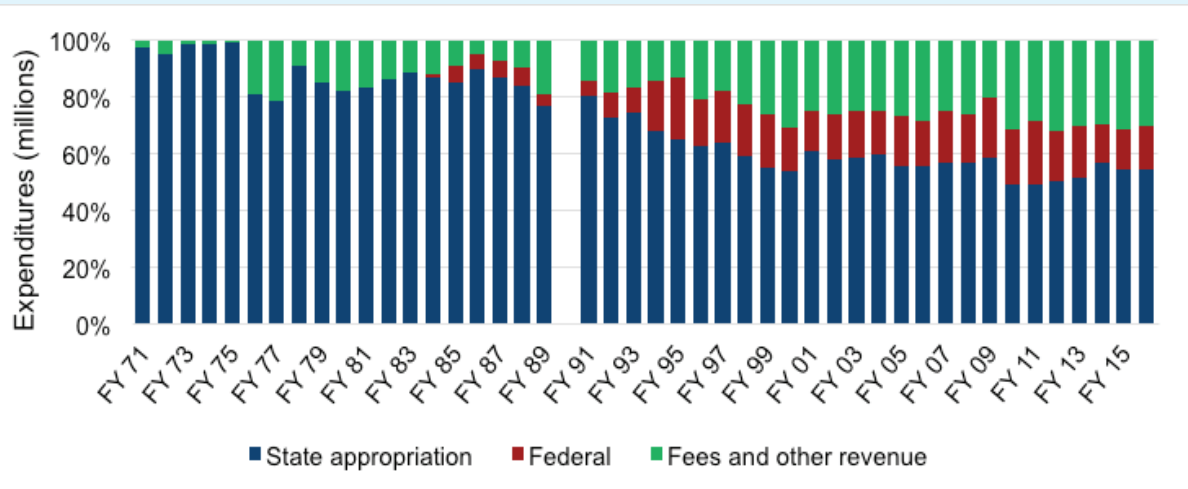
As a result, in fiscal year 2016, TBI relied much less heavily on state appropriation than in its early years: state appropriation made up only 54.6 percent of TBI's total expenditures, while fees and other related revenue made up approximately 30.1 percent, and federal revenue accounted for the remaining 15.2 percent.

### Tennessee Bureau of Investigation, Actual Expenditures by Funding Source, Fiscal Years 1971 to 2016.



Note: Data was not available for fiscal year 1990. Totals reported in the state budget for each category of expenditures may differ from those in Edison, the state's accounting software.

**Tennessee Bureau of Investigation, Percentage of Total Actual Expenditures by Funding Source, Fiscal Years 1971 to 2016.**



Note: Data was not available for fiscal year 1990. Totals reported in the state budget for each category of expenditures may differ from those in Edison, the state's accounting software.

Source: Tennessee Public Acts, 77<sup>th</sup> General Assembly, 1951 regular session, Public Chapter 173; Tennessee Public Acts, 80<sup>th</sup> General Assembly, 1957 regular session, Public Chapter 134; Tennessee Public Acts, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 541; Tennessee Public Acts, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1069; Tennessee Public Acts, 103<sup>rd</sup> General Assembly, 2004 regular session, Public Chapter 673; Governor Lamar Alexander, Executive Order 47, An order transferring the responsibility for investigating fraud in the Medicaid program from the Department of Public Health and vesting it in the Tennessee Bureau of Investigation, February 11, 1983; Tennessee Public Acts, 109<sup>th</sup> General Assembly, 2015 regular session, Public Chapter 503; State of Tennessee, The Budget, fiscal years 1972-73 to 2017-18.

### Mission Creep

Although the Tennessee Bureau of Investigation has significantly expanded in both size and function since its creation in 1951, much of this expansion has been authorized or mandated in state law. TBI has voluntarily taken on several non-statutory functions, but in comparing such initiatives to the duties outlined in state code, the Comptroller's Office found no evidence of mission creep, or expansion beyond TBI's core mission and functions. All of the functions evaluated appeared to either directly support TBI's required functions, or to be otherwise consistent with the bureau's mission:

- **While only three of TBI's seven divisions are created in state law, the remaining four divisions provide general support functions or serve as an administrative hub for other statutory duties.** The Administrative Services Division, for example, is not authorized in state law, but houses the bureau's accounting, human resources, and legal functions. The Criminal Justice Information Services Division, while similarly not in law, handles statutorily mandated duties such as fingerprint submissions, expungements, and background checks performed for fees.
- **Many of the bureau's non-statutory functions are incidental to and directly support its statutory duties.** TBI created the Technical Services Unit on its own initiative in 2004. Although several of the unit's functions – such as the investigation of online child pornography – are mandated by law, other functions are not specifically required in statute. These functions, including the retrieval of evidence from electronics and the operation of TBI's two airplanes, directly support TBI's investigatory functions, however.
- **TBI's remaining functions appear consistent with its mission and duties.** TBI is required by law to provide training on certain topics, such as human trafficking, to local law enforcement and selected state agencies. In addition to basic training for TBI agents, TBI has voluntarily created multiple training academies, including the TBI Citizens Academy for members of the community and the TBI Criminal Justice Academy for college students. While not required by law, these academies may help the bureau by improving the quality of law enforcement staff, boosting TBI's public image, and recruiting future employees.

### TBI has seven divisions, three of which are created in state law.

The **Criminal Investigation Division** is one of the bureau's two original divisions and was created in law in 1951.<sup>38</sup> Three of its four units are outlined in state code, while the fourth performs several statutory functions:

- **The Field Investigation Unit**, divided into four regions across the state, was one of TBI's original core functions created in 1951. The unit assists local law enforcement upon request and initiates its own investigations into certain types of crime, such as public misconduct and corruption or human trafficking.<sup>39,40</sup>
- **The Criminal Intelligence Unit** was created in law in 1997 to gather information on gang activity and to compile statistics for the National Incident-Based Reporting System (NIBRS).<sup>41</sup> Among other things, the unit is also involved with Tennessee's AMBER Alert System, the Missing Children's Clearinghouse, and the human trafficking hotline.<sup>42</sup>
- **The Medicaid Fraud Control Unit** was created by executive order in 1983 and codified in state law in 2004. The unit investigates patient abuse and neglect and fraud by Medicaid providers.<sup>43,44</sup>
- **The Technical Services Unit**, created through TBI's own initiative in 2004, fulfills several statutorily mandated duties, including the investigation of online child pornography and coordinating wiretapping and electronic surveillance for TBI and the majority of local law enforcement.<sup>45,46</sup> See p. 22 and 23 for analysis of the unit's other voluntary duties.

## LEGISLATIVE HISTORY

---

The **Forensic Services Division**, the bureau's second original division dating back to 1951, contains the bureau's three crime laboratories. The division performs various types of forensic testing, including DNA analysis as mandated in state law.<sup>47,48</sup>

The **Drug Investigation Division** was created in law in 1998 to “investigate, gather evidence and assist in the prosecution of criminal offenses involving controlled substances, narcotics, and other drugs.”<sup>49</sup> In addition to its duties outlined in state law, the Drug Investigation Division participates in multiple federally related task forces and federal-state-local partnerships.<sup>50</sup>

### **TBI's four remaining divisions provide general support services or serve as an umbrella for assorted statutory duties.**

Two of the four divisions support TBI's day-to-day operations:

- **The Administrative Services Division** houses TBI's accounting, human resources, and legal functions. The division also handles press releases and media inquiries, internal audit, and procurement.<sup>51</sup>
- **The Information Systems Division** maintains TBI's various registries, data systems and exchanges, and repositories. Additionally, the division provides technical support for TBI staff regarding phones, hardware, and software.<sup>52</sup>

The remaining two divisions, while not created in law, perform multiple statutorily mandated duties. Within the **Criminal Justice Information Services (CJIS) Division**:<sup>F</sup>

- **The Tennessee Internet Criminal Information Center** was created by law in 1997 for the “development, maintenance and updating of an online database, 1-800 Hotline and such other means as are appropriate to provide easily accessible information to members of the public concerning persons of interest to the public safety and welfare.”<sup>53</sup> TBI placed the TICIC within the Law Enforcement Support Unit in the CJIS Division.<sup>54</sup>
- **The Biometric Services Center** performs three functions required by statute. The Data Quality Unit handles fingerprint submissions, a duty dating back to TBI's creation in 1951.<sup>55</sup> The Criminal Records Unit processes expungements, as written into law in 1998.<sup>56</sup> Finally, the Fee Programs Unit performs background checks for a fee, as authorized in state code for various entities.<sup>57</sup>
- **The Tennessee Instant Check System** was created in statute in 1998 to quickly perform background checks on prospective gun buyers.<sup>58</sup>

The **Training Division** is not mentioned in code, but fulfills several statutory mandates; for example, state law requires TBI to provide training to local law enforcement and selected state agencies on certain topics, such as human trafficking.<sup>59</sup> The Training Division also trains all TBI agents on basic criminal investigation procedures and firearms.<sup>60</sup>

### **Many of TBI's non-statutory functions are incidental to and in direct support of its required duties.**

The Technical Services Unit within the Criminal Investigation Division was voluntarily created by TBI in 2004. In addition to investigating online child pornography and coordinating and performing electronic surveillance, as required by law, the unit also:

- performs digital forensic analysis to support investigations by retrieving evidence from computers and cell phones and enhancing audio and visual files;

---

<sup>F</sup> The CJIS Division became a separate division in July 2017. Previously, these functions were contained within the Information Systems Division. CJIS staff were transferred from the Information Systems Division.

## LEGISLATIVE HISTORY

---

- operates TBI's two airplanes for surveillance and intelligence gathering; and
- operates the mobile command posts to coordinate field operations.<sup>61</sup>

These activities directly support TBI's statutory functions. For example, while TBI is not specifically tasked in state law with providing digital forensics services, given the rapid development and widespread use of electronics, such work is necessary to support state and local investigations. Similarly, while TBI is not authorized in law to buy an airplane, the planes are used in direct support of other authorized duties, such as surveillance and intelligence gathering.

Additionally, funding has been appropriated for these non-statutory functions. For example, in fiscal year 2005, following the expiration of a federal grant, the legislature appropriated funding for three computer forensic specialist positions and one secretary; in fiscal year 2017, the legislature funded four additional agent positions for digital forensics.<sup>62,63</sup> In fiscal year 2018, the legislature likewise appropriated funding for TBI's Pilatus airplane and provided \$750,000 of one-time money to purchase a mobile command post.<sup>64,65</sup>

Thus, even though these responsibilities are not specifically listed in law, the provision of state funding suggests an implicit authorization for TBI to carry out these non-statutory functions.

### **TBI's remaining functions appear consistent with its mission and duties.**

State law requires TBI to provide human trafficking training to local law enforcement agencies and selected state agencies. Additionally, although not explicitly described in law, TBI must train its agents regarding basic investigation techniques and firearm use.

In addition to mandated trainings, TBI has voluntarily created various training academies in recent years:

- **the TBI State Academy** provides training for law enforcement officers on more advanced and sophisticated topics, such as undercover investigations, online investigations and computer intrusions, financial investigations, constitutional law, and interview and interrogation techniques, at an estimated cost of \$27,200 per year;
- **the TBI Citizens Academy** gives interested citizens a four-week, in-depth look at the bureau's operations and investigations at an estimated cost of \$1,500 per year;
- **the TBI Leadership Academy** provides leadership training for senior law enforcement officials and costs TBI approximately \$9,200 per year;
- **the TBI Criminal Justice Academy** is a week-long immersion program that allows college students interested in criminal justice or forensics to participate in mock crime scenes and court proceedings at an estimated cost of \$4,500 per year; and
- **the TBI Director's Academy** was created in 2015 to provide leadership training for prospective TBI management and costs TBI about \$20,000 per year.<sup>66,67</sup>

Although none of the academies are required by statute, all support TBI's mission in some respect. The State Academy, which trains law enforcement personnel on more advanced topics, is consistent with TBI's original purpose to assist local investigators. Additionally, training local agencies on how to better handle sophisticated crimes may reduce TBI's degree of involvement in investigating or assisting with such cases. Providing pre-supervisory training to prospective TBI management through the Director's Academy may improve the quality of the bureau's staff, and college students completing the Criminal Justice Academy may ultimately go on to a career in law enforcement, perhaps with TBI.

Finally, by providing an educational window into TBI's operations, the Citizens Academy serves as an outreach opportunity to members of the community, including several state and local officials who have completed the program.

### Additional TBI initiatives.

TBI has undertaken several initiatives beyond those outlined in state law:

- **The Victim Services Coordinator** position was created within the Administrative Services Division in 2015 to support and provide resources to the witnesses and victims of crimes investigated by TBI. Salary and benefits for the position total approximately \$57,500, and travel costs associated with the position were about \$2,600 in fiscal year 2017.
- TBI coordinated with the Tennessee Department of Education to create a **toll-free school violence hotline** operated 24 hours a day, seven days a week. Staff for the school violence hotline also answer TBI's other hotlines; thus, no additional expenditures are incurred for the school violence hotline.
- TBI created the **TBI Top Ten Most Wanted** program within the Criminal Intelligence Unit and has apprehended 385 fugitives to date. In fiscal year 2017, TBI paid \$9,000 in rewards to people who provided information leading to arrests.
- Twelve to 14 volunteer, non-sworn chaplains support TBI employees, families, and victims of crime through the Training Division's **chaplain program**. While volunteers may be reimbursed for travel, TBI states that most do not claim travel expenses and costs of the program are minimal.

Source: Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 8, 17, 21, 50, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017); Brian Senecal, Fiscal Director, Tennessee Bureau of Investigation, email and attachment, Nov. 14, 2017; Transparent Tennessee, "State Employee Salary Search Results: TBI," <https://apps.tn.gov/salary-app/results?d-16544-p=10&d-16544-o=2&d-16544-s=3> (accessed Nov. 28, 2017).

# Budget and Fiscal Operations

Budget and Fiscal  
Operations





## BUDGET AND FISCAL OPERATIONS

### Background

This section will provide a brief overview of the Tennessee Bureau of Investigation's (TBI's) Fiscal Services Unit, a summary of the annual budget process, and a history of the bureau's budget shortfalls and reliance on its reserve funds for continued operations. Additionally, this section provides conclusions concerning the factors that contributed to TBI's budget shortfalls, as well as recommendations for consideration.

### TBI Fiscal Services Unit

The Fiscal Services Unit of TBI's Administrative Services Division provides financial and support functions for the bureau, such as budgeting and accounting. In executing its duties, the Fiscal Services Unit coordinates with F&A, which acts as the chief corporate office responsible for state government's financial activities, including budget preparation, financial reporting, financial management, and information systems administration.

### The Annual Budget Process

F&A provides instructions to each agency every year to compile the necessary information for the annual state budget. In compiling and preparing their annual budgets, state agencies identify potential increases and decreases in expenditures and revenues. Although estimates in certain operational fields may vary from actual amounts, best practice dictates using historical values and trends in developing a basis for estimated budget amounts.

Due to the timing of the budget process, agencies and F&A must estimate the revenues and expenditures for the coming fiscal year before they have access to final revenues and expenditures for the current fiscal year. Given the need to use estimates in the budgetary process, errors can occur when agencies over- and underestimate revenues and expenditures for the upcoming fiscal year. These estimation errors are often difficult to identify and correct the following fiscal year; hence, it may take two years to identify and correct an estimation error.

### Internal Controls and Accountability

Unlike other state entities, TBI must maintain a significant degree of fiscal transparency while ensuring its investigative operations are not impaired. Likewise, the balance between public accountability and organizational independence requires management's commitment to a strong internal control environment.

In *Standards for Internal Control in the Federal Government* (the Green Book), which serves as best practice guidance for non-federal government agencies, the U.S. Government Accountability Office states that an "internal control is a process used by management to help an entity achieve its objectives." According to the Green Book, internal controls help an entity:

- run its operations efficiently and effectively;
- report reliable information about its operations; and
- comply with applicable laws and regulations.

As noted in the **January 2018 performance audit of the Tennessee Bureau of Investigation**, "Management understands the importance of the bureau's mission as the state's law enforcement agency. Given its commitment to maintaining the bureau's elite status, management should hold its business functions to the same high standards by developing strong controls that include effective policies and procedures." For more information on TBI's internal controls, including findings and observations, please see the 2017 performance audit report.

## BUDGET AND FISCAL OPERATIONS

In keeping with F&A's instructions, TBI submits its budget for each fiscal year. This annual budget includes management's estimate of revenues and expenditures required to operate the bureau. A summary of TBI's budget process timeline is in **Appendix I**.



### The Work Program

F&A provides state agencies with an annual work program, which is a system that management uses to track the estimated revenues and expenditures associated with specific line items or functions. There is a work program for each of the agency's allotment codes, which designate the agency's major operating units or programs. State agencies use the work programs to monitor their operating budgets during the year.

F&A begins the work program process with the prior year's recurring funding for each budget line item. For the fiscal year 2017 budget, the budget process began with the fiscal year 2016 final or ending work program amounts, which include both recurring and non-recurring funding. To arrive at the base budget for fiscal year 2017, F&A removes any non-recurring funding from the fiscal year 2016 work program and adds any new recurring appropriations. Agency management then enters forecasted adjustments, including cost increases and reductions, and submits its base budget request to F&A.

To demonstrate the differences between an agency's initial budget proposal and the finalized work program, TBI's initial budget proposals and its finalized work programs are exhibited in **Chart 01**.



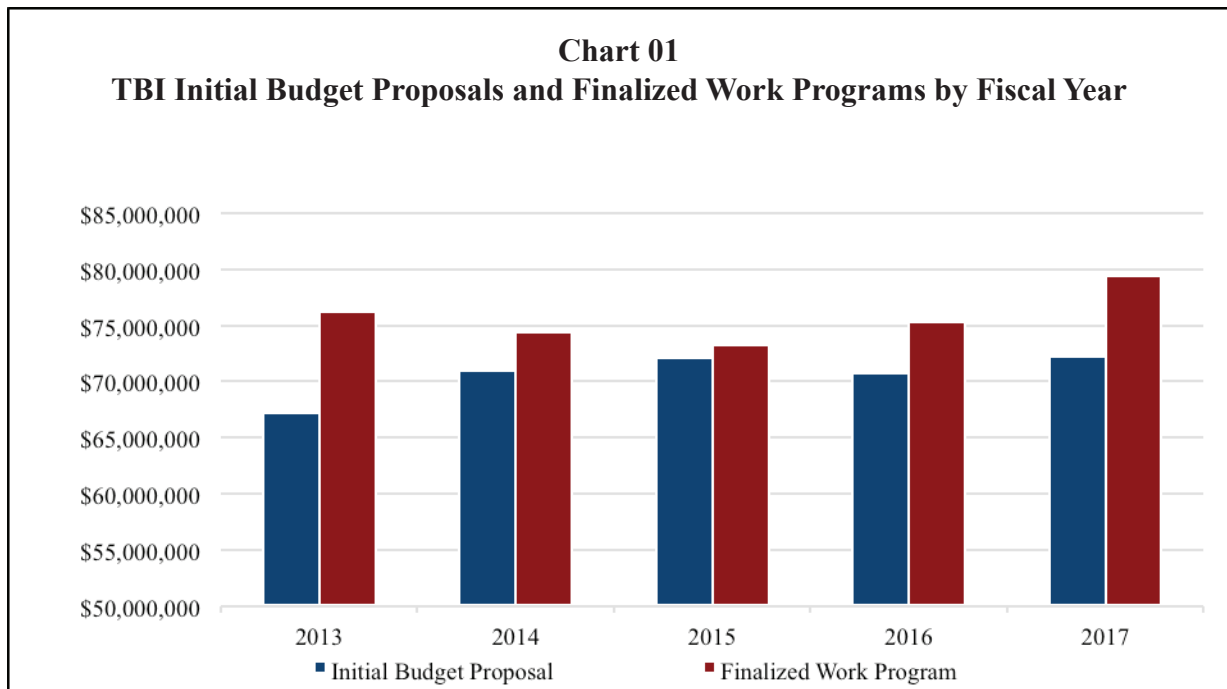
Next, F&A adjusts the base budget proposals, with input from agency's management, for anticipated increases or reductions in revenues and expenditures. F&A then aggregates the budget proposals from all the state's agencies to form the basis of the

Governor's budget proposal, which is due to the General Assembly on February 1 of each year. After the General Assembly reviews the budget proposal, makes necessary adjustments, and passes the annual appropriations bill, F&A inputs specific changes from the appropriations bill, state-wide adjustments, or unexpected federal funding and then provides a completed work program to each agency for each allotment code. F&A also uses the completed work program to enter the revenue and expenditure estimates into Edison (the state's accounting system).

The work program is a budget template that F&A provides to state agencies. The work program is much more specific than the general information presented in the annual budget document and includes discrete line items such as overtime, travel, and training.

The work program is an agency's working budget, and it includes the amendments and adjustments that occurred during the passage of the annual appropriations bill, as well as all recurring and non-recurring funding.

An allotment code is a five-digit number used to designate a program or programs for budgeting and accounting purposes. These codes represent operating units of state government, and a single code may include all of an agency's operations or a subset of its duties.



Source: Initial budget proposals from TBI staff and finalized work programs from F&A.

### Revenues

The revenues, or funding, necessary to finance state government are collected from a variety of sources. In compliance with the Government Accounting Standards Board (GASB), the state presents funding sources in its financial statements in two broad categories, Departmental Revenues and Nondepartmental Revenues (also referred to as State Revenues). Section 4 of Chapter No. 460 of the Public Acts of 2016, “Departmental Revenues,” provides the following definitions for these terms:



For the purpose of this section “departmental revenues” are defined as (1) earnings or charges for goods or services; (2) donations, contributions or participation by political subdivisions, foundations, corporations, firms or persons; and (3) certain state revenues which for budgetary purposes, are treated as departmental revenues under the provisions of this section, unless otherwise provided in this act or other provisions of law. State revenues, in contradistinction to departmental revenues, are the proceeds of taxes, licenses, fees, fines, forfeiture or other imposts laid specifically by law.

F&A’s Department of Accounts further subdivides these revenue sources for the purposes of financial statement reporting, as exhibited in the following table:

Departmental	Nondepartmental (State)
Investment Income (or Loss) <sup>G</sup>	Taxes
Federal	Licenses, Fines, and Fees
Department Services	Other (miscellaneous)

<sup>G</sup> The Division of Accounts identifies certain investment income and loss as nondepartmental revenues.

## BUDGET AND FISCAL OPERATIONS

The annual budget for the State of Tennessee divides revenues into three basic types: state, federal, and other.<sup>11</sup>

- State revenues are appropriations, both general and dedicated, enacted by the General Assembly.
- Federal revenues are awarded by the federal government in keeping with national programs and incentives.
- Other revenues include interdepartmental revenues; current services revenues; non-governmental revenues; and revenues from cities and counties.

**Nondepartmental Funding**, or **State Revenue**, is comprised mainly of taxes. **Departmental Funding** is collected by agencies and appropriated directly to them and includes **Federal Revenue** and **Other Revenue**.

**Appropriations** are the amounts authorized by the General Assembly to be allocated from a fund to an allotment code (e.g., appropriating general tax revenue to a specific state agency or program).

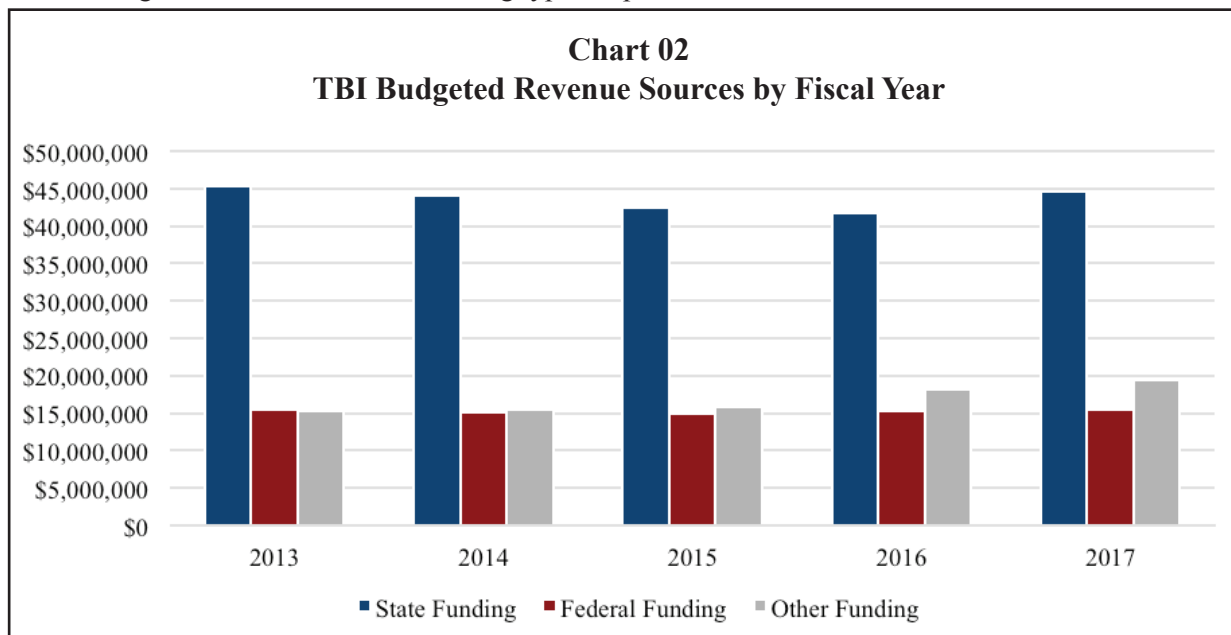
**General appropriations** are drawn from general revenues (i.e., general taxes), whereas **dedicated appropriations** are drawn from taxes and fees set aside for a specific service or program (e.g., \$50 of expungement application fees appropriated to TBI).

**Interdepartmental revenues** are revenues one state agency receives from another state agency. These funds include reimbursements of shared costs, grant awards, and payments for services.

**Current services revenues** are funds generated by a specific activity to support that activity. This includes fees and assessments, gifts, and interest from reserves or endowments. The \$10 Tennessee Instant Check System fee for handgun sales background checks is a current services revenue for TBI.

F&A's Division of Accounts and Division of Budget determines how revenue sources are defined and reported.

TBI's budgeted revenues for each funding type are presented in **Chart 02**:



Source: TBI finalized work programs.

<sup>11</sup> Institutions of higher learning may also have a fourth type of revenue, "Tuition and Fees."

## BUDGET AND FISCAL OPERATIONS

---

As exhibited in **Chart 02**, for fiscal year 2013 to fiscal year 2017, the majority of TBI's funding (58 percent) consisted of state appropriations. TBI received its remaining funding from federal revenues (20 percent) and interdepartmental and current services revenues (22 percent).

According to F&A, unless statute requires a funding source to be used to offset a specific cost, funding is exhausted in the following order:

1. federal funds;
2. county, city, and non-governmental revenues;
3. current services revenues;
4. interdepartmental revenues;
5. reserves; and
6. state appropriations.

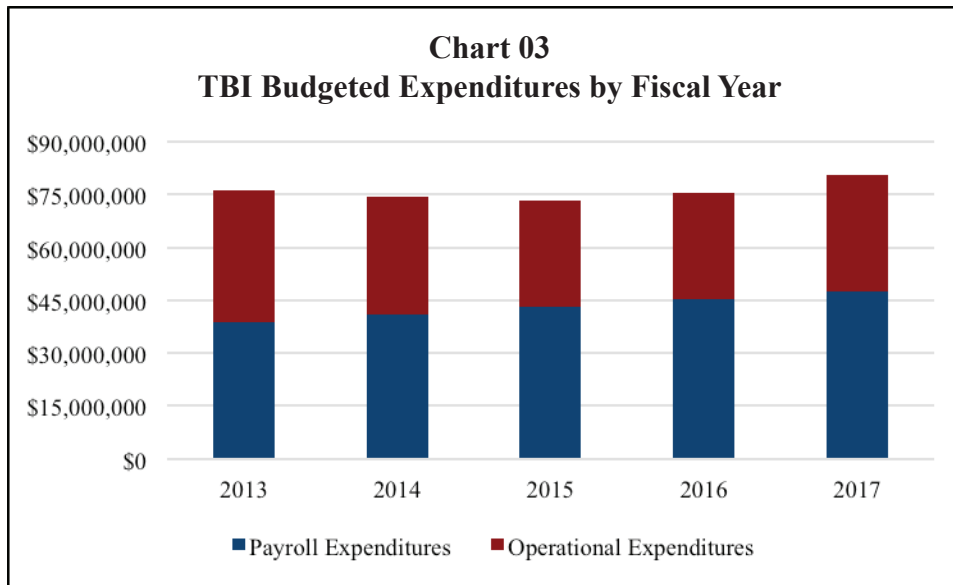
F&A establishes the general order of spending in Item 13 of F&A Policy 4, "Recognition of Revenues and Expenditures," as exhibited below:

**Order of Spending:** When both restricted and unrestricted resources are available for use and allowable, restricted resources are generally used first and then unrestricted as necessary. Of the unrestricted resources, the state considers that committed amount would be reduced first, followed by assigned amount and then unassigned amounts. For projects funded by tax-exempt debt proceeds and other sources, debt proceeds are typically used first.

## BUDGET AND FISCAL OPERATIONS

### Expenditures

Each year, agencies must also estimate their expenditures, the costs of operating an agency, and the total estimated expenditures for an organization must match its total estimated revenues. TBI's budgeted expenditures for fiscal years 2013 through 2017 are exhibited in **Chart 03**.



Source: TBI finalized work programs.

In the annual budget, expenditures are divided into two components: payroll and operational. Each agency estimates the total payroll cost, such as salary and benefits, of all full-time, part-time, and seasonal staff to arrive at a payroll amount. The other costs of an agency, including utilities and supplies, are grouped together into operational expenditures. Over the past five fiscal years, payroll costs accounted for 57 percent of TBI's actual expenditures, while operating costs accounted for 43 percent.

### Budget Reductions

To initiate an effort to reduce costs and increase statewide operational efficiency, the Governor, through F&A, institutes mandatory budget reductions on state agencies.<sup>1</sup> Budget reductions, also referred to as budget cuts, are a percentage reduction of an agency's discretionary base,<sup>1</sup> which is composed of recurring general appropriations. When the Governor calls for budget reductions, F&A distributes instructions to each agency with a target percentage reduction of its discretionary base (e.g., a 2 percent reduction).

Each agency then submits a reduction plan to F&A and the Governor on how it will meet the reduction target and how this plan will impact the agency's ongoing operations.



<sup>1</sup> Mandatory budget reductions do not apply to certain state agencies of the legislative and judicial branches. Some such agencies willingly meet percentage reductions even though they are not required to do so.

<sup>1</sup> The 2017-2018 budget document for the State of Tennessee states that "discretionary appropriations exclude appropriations from all dedicated taxes and fees, federal aid, and other departmental revenue; and general fund appropriations for the K-12 Basic Education Program (BEP), pre-kindergarten, constitutionally and statutorily required salaries of judges, 31 district attorneys, 31 public defenders, and certain programs affecting indigent or low-income persons."

## BUDGET AND FISCAL OPERATIONS

Many agencies offer to reduce staffing, by identifying a specific number of staff positions and the related payroll expenditures and offering to cut those positions to meet the budget reduction target. F&A and the Governor can approve the agency's reduction plan, make an alternative adjustment in its reduction, or remove the imposed reduction altogether. Budget reductions become official when the General Assembly passes the appropriations bill establishing the new budget for the agency. The budget reductions impacting TBI for the past five fiscal years are presented in **Table 01**.

### Other Budget Impacts

#### Additional Funding and Supplemental Appropriations

When an agency has budget needs that are not met through F&A and the Governor's budget process, it may receive additional funding directly from the General Assembly. The General Assembly can amend the appropriations bill to include additional general appropriations prior to the beginning of the fiscal year, thereby adding to an agency's base appropriations. Similarly, supplemental appropriations are additional appropriations to the original allotment authorized by the General Assembly after the beginning of the fiscal year. For fiscal year 2017, the General Assembly provided \$66.9 million in supplemental appropriations for various state initiatives, including the \$4.2 million supplemental appropriation to cover TBI's operating deficit. Either type of legislative action must be initiated by the General Assembly; however, state agencies, lobbyists, or constituents may present items of interest to the legislators.

**Table 01**  
**TBI Budget Reductions by Fiscal Year**

Fiscal Year	Base Discretionary General Appropriations	Total Reductions	Reduction Percentage
2013	\$ 30,536,500	\$ 231,200	0.76%
2014	31,148,400	800,000	2.57%
2015	31,927,200	1,596,500	5.00%
2016	30,118,700	2,125,100	7.06%
2017	29,015,400	-	0.00%
<b>Total:</b>	<b>\$ 152,746,200</b>	<b>\$ 4,752,800</b>	
<b>Average:</b>	<b>\$ 30,549,240</b>	<b>\$ 950,560</b>	
Fiscal Year	Budget Reduction Impact on TBI		
2013	TBI reduced payroll funding by eliminating six vacant positions.		
2014	TBI reduced operational and equipment expenditures.		
2015	TBI increased collections of dedicated revenue and replaced general fund appropriations with increased collections in the Drug Testing Fund.		
2016	TBI reduced operational expenditures and increased the estimate of current services revenue to offset state appropriations.		
2017	The proposed cut would have eliminated 10 TBI agents and was not imposed.		

Source: The budgets for the State of Tennessee for fiscal years 2013 to 2017.



## BUDGET AND FISCAL OPERATIONS

### Budget Reversions



The Governor may call for budget reversions to reduce costs and to increase efficiency. Reversions are unspent funds (over-appropriations) that go back to the general fund at the end of the fiscal year. While reductions are included in the budget proposal, the reversion targets are set by F&A but are not included in the annual budget proposal. The amounts reverted by TBI each year between fiscal year 2013 and fiscal year 2017 are presented in **Table 02**. Due to the highly technical and complex nature of the budget process and the calculations of budget reversion amounts and of reserve fund balances, the Comptroller's Office gained an understanding of these processes but did not verify the amounts calculated and reported by F&A. The Comptroller's Office could not obtain sufficient documentation from either F&A or TBI to verify the

**Table 02**  
**TBI Reversion History for FY 2013 to FY 2017**

Fiscal Year	Reversion Target	F&A Reported Reversion
2013	\$ 500,000	\$ 2,862,415
2014	750,000	911,549
2015	650,000	3,747,816
2016	650,000	620,563
2017*	650,000	-
<b>Total:</b>	<b>\$ 3,200,000</b>	<b>\$ 8,142,343</b>

\*After the Identification of the budget shortfall for fiscal year 2017, F&A elected to eliminate TBI's \$650,000 budget reversion target for that fiscal year.

Source: F&A

bureau's reversion history provided by F&A. According to the TBI Fiscal Director, these reversion amounts may be inaccurate; however, F&A has never officially reported actual reversion amounts to his office.

### Reserve Funds

Reserve funds and carry forward funds are statutorily created accounts to capture specific dedicated appropriations and current services revenues. The General Assembly sets in statute the appropriate use of these funds, and the balance of these accounts may be carried forward from one fiscal year to the next instead of reverting to the state's general fund. TBI's four reserve funds and its carry forward fund are exhibited in **Table 03**.<sup>K</sup>



<sup>K</sup> The fees for conducting handgun permit background checks are collected in a carry forward fund account. The guidance for specific reserve fund accounts and carry forward fund accounts is established in state statute, and the difference in terms is minor and relates to the process by which positive balances transfer to the following fiscal year.

**Table 03**  
**TBI Reserve Fund and Carry Forward Fund Accounts**

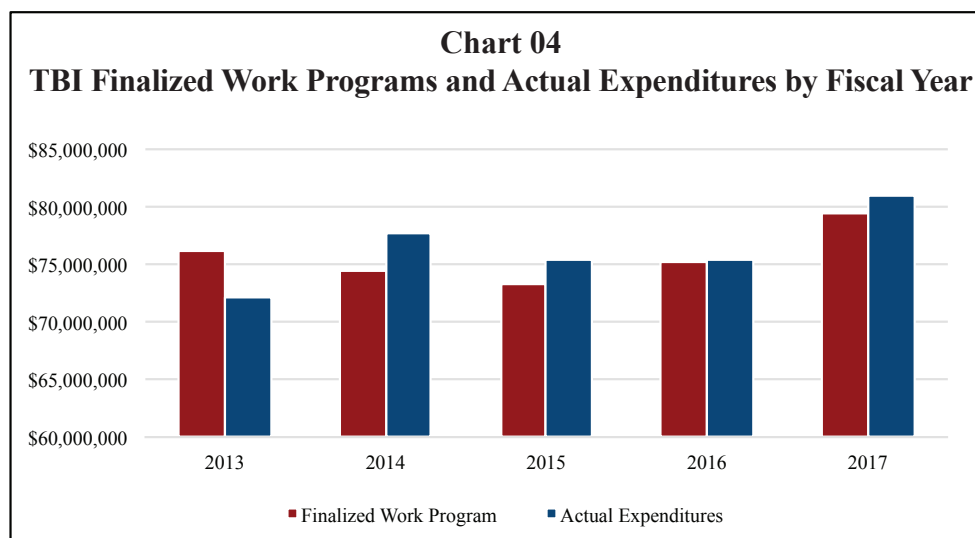
Fund	Tennessee Code Annotated	Revenue Source	Use of Funds
Expungement and Diversion Database Fund	Sections 38-6-118 and 40-32-101(d) et seq.	\$50 for processing expungement applications and \$100 for processing pretrial diversion requests	To fund personnel, purchase equipment, provide training, and any other purpose to increase overall TBI operational efficiency.
Handgun Permit Fund	Section 39-17-1351(p) et seq.	\$15 for conducting background checks for handgun carry permits	For the sole purpose of updating and maintaining TBI's fingerprint criminal history database.
TBI Drug Chemistry Unit Drug Testing Fund	Section 39-17-420(h) et seq.	\$250 for drug convictions, assessed upon conviction, and collected by county clerks	To fund forensic scientist positions and equipment to analyze blood samples. TBI may use surplus funds for overall operational efficiency.
TBI Toxicology Unit Intoxicant Testing Fund	Section 55-10-413(f) et seq.	\$250 for driving under the influence convictions, collected by county clerks	To fund forensic scientist positions and equipment to analyze blood samples. TBI may use surplus funds for overall operational efficiency.
Tennessee Instant Check System (TICS) Fund	Section 39-17-1316(e) et seq.	\$10 for conducting handgun sales background checks	To fund the costs associated with conducting background checks. Excess money shall be appropriated by the General Assembly to TBI for other law enforcement-related purposes.

Source: *Tennessee Code Annotated*.

## Analysis

### Budgeted and Actual Expenditures

The Comptroller's Office analyzed TBI's budgeted and actual expenditures for fiscal year 2013 through fiscal year 2017. Since fiscal year 2014, TBI's actual expenditures have exceeded budget estimates, as demonstrated in **Chart 04**.



Source: TBI finalized work programs and Edison accounting records.


### F&A's Administration of TBI's Reserve Funds

Each year in the appropriations bill, the General Assembly provides for the appropriation of funds from reserve fund accounts, dictating such appropriations at a “sum sufficient” to ensure compliance with pertinent *Tennessee Code Annotated* provisions. Through the appropriations bill, the General Assembly authorizes the Commissioner of F&A to appropriate and allot the amount from the reserve funds to TBI for their statutorily dictated purposes, which includes general operational efficiency. To draw upon these funds, the bureau must submit a “sum sufficient letter,” requesting the Commissioner of F&A to authorize the appropriated allotment of funds.

#### Exhibit 1 Excerpt from Sum Sufficient Letter

**MEMORANDUM**

To: Honorable Larry B. Martin, Commissioner  
Department of Finance & Administration

From: Mark Gwyn, Director 

Date: June 4, 2015

Subject: Request for Sum-Sufficient Allotment

In accordance with Section 9, Item 37 of the Appropriations Bill, I respectfully request that a budget increase be granted to the Bureau's FY 14-15 budget by the amount of \$4,500,000. This increase will provide sum-sufficient from revenues and reserves for criminal history records checks for firearm purchases, and criminal history records checks for employment requirements. Below is a breakdown of the requested allotment.

<u>Account Code</u>	<u>Description</u>	<u>Amount</u>
71600	Equipment	\$4,500,000
68080000	TICS	\$2,500,000
68080000	Record Checks	\$2,000,000

Additionally, the appropriations bill may authorize the Commissioner of F&A to deny certain carry forward amounts of reserve and carry forward funds and transfer these amounts to the general fund, “sweeping” the balances of these accounts. Since 2008, the Commissioner of F&A swept various amounts from TBI’s reserve and carry forward funds to ensure the timely closing of the state’s fiscal year. In response to the financial crisis of 2008, the Commissioner swept the following amounts from TBI reserve and carry forward funds.



Again, in November 2014, the Commissioner of F&A swept \$6,173,342 from the Handgun Permit Fund, allowing only \$300,000 to be carried forward. While TBI could not use the

**Table 04**  
**TBI Reserve Sweeps for Fiscal Year 2009**

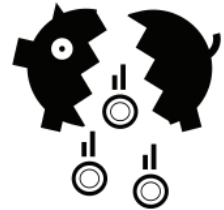
Account	Amount Transferred to General Fund
Expungement and Diversion Database Fund	\$ 431,918
Handgun Permit Fund	1,638,136
TBI Toxicology Unit Intoxicant Testing Fund	1,060,570
Tennessee Instant Check System Fund	1,688,815
<b>Total Amount:</b>	<b>\$ 4,819,439</b>

Source: TBI carry forward and reserve fund letters.

Handgun Permit Fund to finance general operations, the bureau had maintained these funds for the eventual replacement of the current fingerprinting information system, the Automated Fingerprint Identification System, as required by statute. Because of the sweep, TBI no longer has provisions for system replacement and will have to seek state appropriations when the need arises.

#### **TBI's Reliance on Reserve Funds**

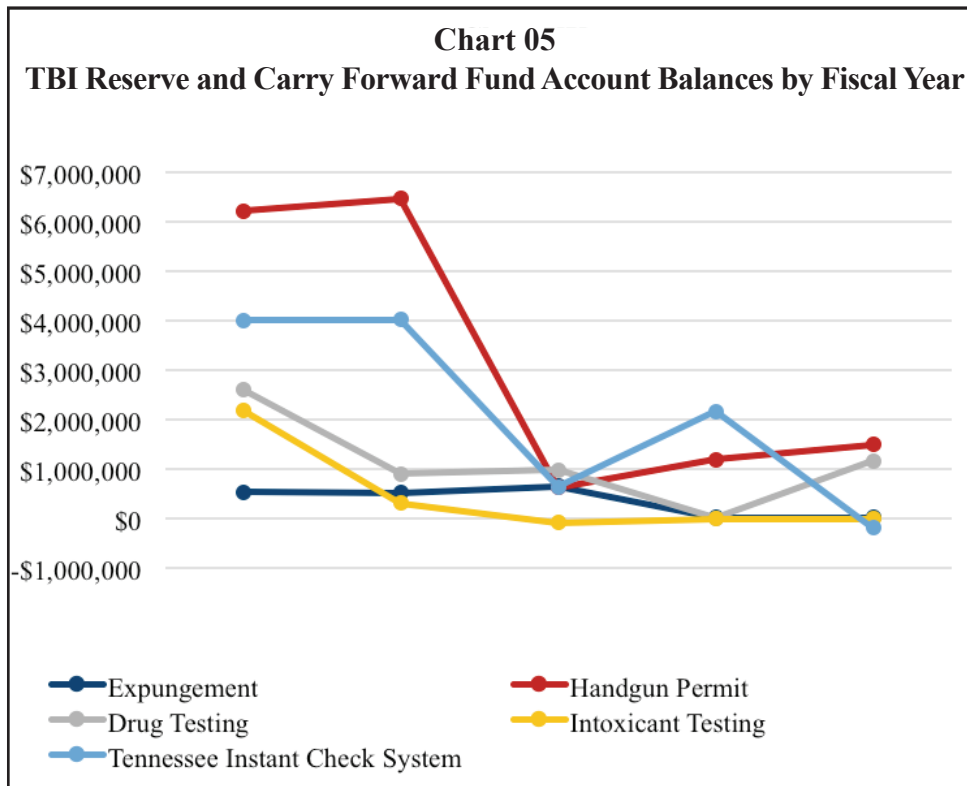
To compensate for mandated budget cuts and reversions, and for its increased expenditures, TBI has relied on various reserve funds to finance its mission activities and to ensure continued operations. Based on discussions with TBI personnel, including the retired TBI Deputy Director, the bureau unofficially incorporated its reserve accounts into its budget each year to cover increased operational costs, budget reductions, and budget reversions. TBI, in essence, annually expects to operate at a budget shortfall with its reserve accounts filling the gap between revenues and expenditures. Specifically, the bureau uses its reserve funds to avoid layoffs and operational gaps while still meeting budget reduction and reversion targets mandated by F&A and the Governor.



Over the last five fiscal years, TBI's reliance on reserve accounts, coupled with the sweep of its Handgun Permit Fund, has greatly diminished these reserve account balances, as exhibited in **Chart 05**.

With the exception of the Handgun Permit Fund, state statute provides broad guidance on the use of reserve account funds. TBI may, therefore, use any positive balances to cover many of its recurring expenditures. As reported by the retired Deputy Director, he met with F&A's then-Director of Budget<sup>M</sup> in 2008, and the two agreed that the use of reserve funds to overcome budget reductions and meet reversion targets was acceptable and in compliance with pertinent *Tennessee Code Annotated*. TBI has since relied on this direction to fund its operations, and, each year when it is necessary, submits a "sum sufficient" authorization request to F&A to utilize the bureau's reserve account balances for these purposes. TBI requested such an authorization in the previous four fiscal years, from fiscal year 2014 to 2017. See **Conclusion 3**.





In fiscal year 2015, the reserve fund for the TBI Toxicology Unit Intoxicant Testing Fund fell to a negative value due to overspending and decreased revenues. Likewise, in fiscal year 2017, the reserve fund for the Tennessee Instant Check System fell to a negative value. Source: TBI carry forward and reserve fund letters.

### F&A's Review of TBI's Fiscal Operations

In October 2016, the TBI Fiscal Director identified a budget shortfall for fiscal year 2017 and issued a sum sufficient letter requesting F&A's authorization to use the bureau's reserve funds to cover this shortfall. Instead of immediately authorizing the allotment as in the past, F&A Budget Coordinator began a review of TBI's budget shortfalls. TBI and F&A jointly determined that the bureau's expenditures for fiscal year 2017 would exceed its revenues by \$4.2 million; additionally, they identified that the budget shortfall would be repeated in fiscal year 2018. To address F&A's budget shortfall concerns and to ensure continued operations and mission fulfillment, TBI requested a one-time supplemental cost increase in its appropriations, as well as a recurring cost increase in appropriations.

After TBI and F&A identified and communicated the revenue budget shortfalls of fiscal years 2017 and 2018 to the General Assembly, F&A, with the cooperation of TBI, conducted its own limited review of the bureau's administrative and fiscal operations for fiscal year 2013 to fiscal year 2016 in January and February 2017. After performing its review, F&A made the following recommendations to TBI: The Commissioner of F&A determined not to pursue the recommendations to move TBI's Fiscal Services and create additional allotment codes until after the Comptroller's Office's review. See **Conclusion 3**.

<sup>M</sup> The former Director of Budget retired in 2013.

## BUDGET AND FISCAL OPERATIONS

### Additional Measures

During legislative committee hearings in February 2017, legislators asked TBI for a plan to use a single, non-recurring appropriation to stabilize the bureau's operations, and the TBI Director recommended the purchase of the then-leased Pilatus airplane<sup>N</sup> to remove the recurring lease payments and to provide more financial stability to the bureau. The funds that would have gone to the airplane's lease payments could be repurposed to other areas of TBI's operations.

In a **cost increase**, an agency requests additional budgeted appropriations to implement statutory requirements, to compensate for revenue reductions, to initiate new programs, or to enhance its base funding level.

### F&A's Recommendations for TBI Additional Funding and Operational Efficiencies

- Increase the fiscal year 2018 recurring appropriation to \$3.1 million, an increase of \$1 million from the original proposed budget.
- Eliminate TBI's \$650,000 budgeted reversion target in fiscal years 2017-2020 at which time F&A and TBI will jointly determine if the TBI budget is then in a position to absorb a reversion target and if so, the amount.
- At no cost to TBI, F&A's Small Agency Accounting Unit will absorb TBI's fiscal transactions in fiscal year 2018 with TBI maintaining all current FTEs [full-time employees] as well as the associated funding. At TBI's discretion the funding and FTEs can be reallocated to operational needs.
  - *The estimated savings to be repurposed are approximately \$500,000 assuming some positions and funding remain to continue TBI budget operation. It could possibly be more.*
- With the assistance of F&A, TBI will separate the single allotment code (348.00) when submitting the fiscal year 2019 budget to provide better transparency and insight into the allocation of funds for TBI operations.
  - *F&A will include transfer authority language in the FY 2019 and beyond appropriations bill to allow funds to be transferred between the new allotment codes.*

### 1. Both TBI and F&A should commit to improve communication during the budget process to ensure TBI performs its financial activities effectively and efficiently and provides full disclosure of TBI's financial health and funding needs.

The goals of the State of Tennessee's financial activities are to ensure transparency, to promote cost-effectiveness, and to meet the needs of the state's citizens. As an agency whose charge is to protect the citizens of Tennessee and to provide services to local law enforcement agencies, the operations of TBI are especially critical. To achieve its mission, TBI's management must monitor and track its financial activities and provide key state leaders and the General Assembly with the status of its financial health and its financial needs.



Based on the Comptroller's Office's review of TBI's financial activities and communications with all key parties, TBI has monitored its budgeted activities to the extent it had access to the information. The Comptroller's Office also found that TBI has generally complied with F&A budget directives and has properly identified its own budget shortfalls.

<sup>N</sup> For more details about this transaction, see the Airplane Procurement sub-section on page 55.



Based on discussions with members of the General Assembly and legislative budget analysts, members of the General Assembly have expressed concerns that TBI circumvented the budget process. These sentiments suggested that TBI did not present its full needs to the Governor and F&A and instead asked the General Assembly directly for additional appropriations. Based on meetings with F&A's Deputy Commissioner and the Director of Budget, F&A management echoed these comments and believed that TBI had gone directly to the General Assembly to request appropriations instead of following the prescribed budget process.

Per TBI management, though, TBI has never approached the General Assembly to request additional appropriations. The TBI Legislative Liaison and the TBI Director both stated that legislators have reached out to the bureau, often in informal settings, and asked what the bureau needed. The General Assembly may also be alerted to the bureau's needs through constituents, lobbyists, concerned parties (such as local law enforcement agencies), and reports appearing in the media. When asked, TBI provides suggestions or ideas, but according to bureau management, TBI has followed the budget process as dictated by F&A.

The Comptroller's Office could not verify the nature of these discussions because such discussions were not documented.

Specifically, TBI fiscal staff had identified the budget shortfall for fiscal year 2017 in October and November of 2016 because of its own routine financial monitoring activities, which included a comparison of budgeted, historical, and actual amounts. Once TBI found the budget shortfall, fiscal staff promptly communicated the potential amounts to F&A's Division of Budget.

The state's budget and accounting processes are highly technical and structured and require expertise to ensure accuracy, transparency, and efficiency. To achieve these goals, all parties must prioritize communication and commit to adequate disclosure. Given that F&A is responsible for a critical part of the budget process, it is imperative that F&A provides state entities with all budget information and changes throughout the budget process. TBI fiscal staff and F&A's Division of Budget should work closely to ensure the bureau receives all the information necessary for budgetary decisions and estimates so that TBI management can properly monitor its reserve fund accounts and better estimate its future needs.

Another challenge for TBI's fiscal staff relates to monitoring and managing the reserve funds. Because the process for reporting the amounts to be carried forward each year and spending from the reserve accounts is highly technical and complex, TBI fiscal staff must have access to all information available, which includes an audit trail from F&A for each reserve or carry forward account, complete with all post-closing adjustments. Based on discussions with both TBI and F&A, F&A has not provided TBI fiscal staff with this audit trail in the past. TBI relies on its own calculations of reserve balances, which are reviewed and approved by F&A's Division of Budget and Division of Accounts, but which do not include a reconciliation to the amounts later reported by F&A.

### Internal Control: Information and Communication

As noted in Principle 13 of the Green Book, "Management should use quality information to achieve the entity's objective." As a fundamental principal of internal control, management should obtain "relevant data from reliable internal and external sources in a timely manner based on the identified information requirements."



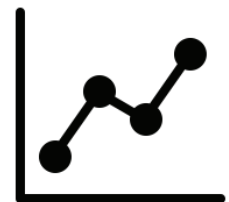
### 2. TBI's forecasted expenditures and revenues were not reflective of historical trends, exacerbating its budget shortfalls.

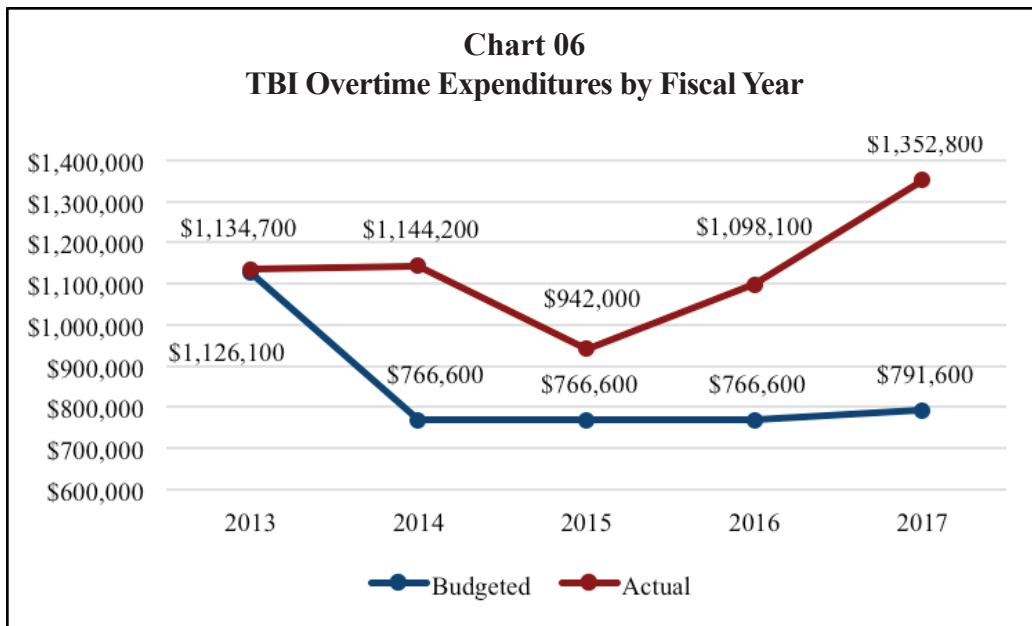
Given the unique needs in the field of law enforcement and investigation, TBI's annual budget is especially difficult to forecast. Since public sentiment and law enforcement trends evolve rapidly, the public need for the services offered by TBI can change from year to year as certain crimes and investigations become more prevalent in the state. However, TBI and F&A can still develop a budget that more closely reflects historical expenditures and revenue sources. TBI's budget requests diverted from historical trends, resulting in understated forecasted expenditures and overstated forecasted revenues.



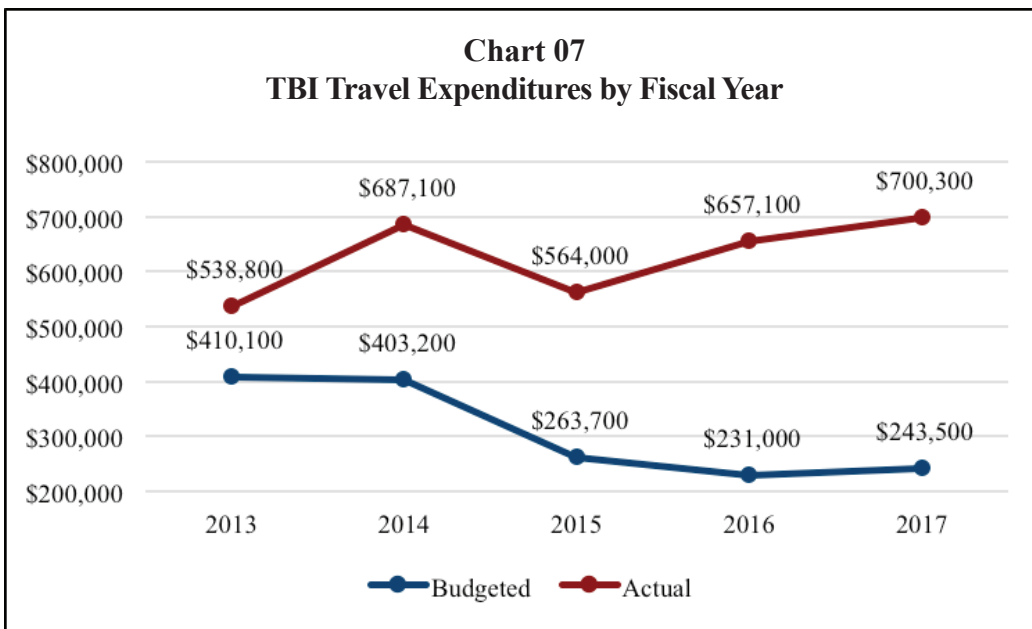
According to TBI work programs, Edison accounting information, and discussions with key personnel from TBI and F&A, the bureau's expenditure estimates were lower than historical values and have been significantly less than actual expenditures, as exhibited in **Charts 06, 07, and 08**.

Likewise, since fiscal year 2014, the budgeted revenues for expungement and diversion application processing fees were significantly overstated, as exhibited in **Chart 09**. Based on discussions with the TBI Fiscal Director and a review of TBI's finalized work programs, the bureau and F&A lowered the estimated revenue amount for expungement and diversion application fees. The revenue estimates in TBI's finalized work programs for fiscal years 2016 and 2017 were lowered to \$2,907,200 and \$1,407,200, respectively.

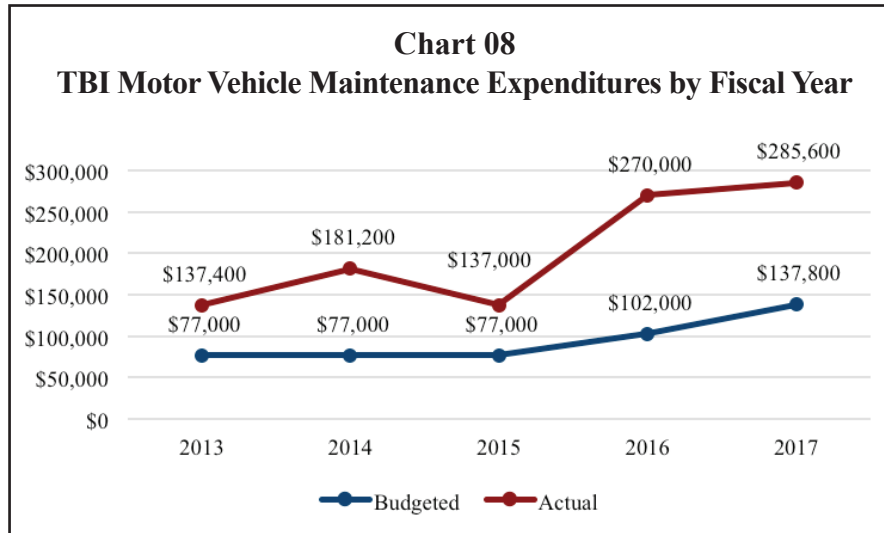




Source: TBI finalized work programs and Edison accounting records.

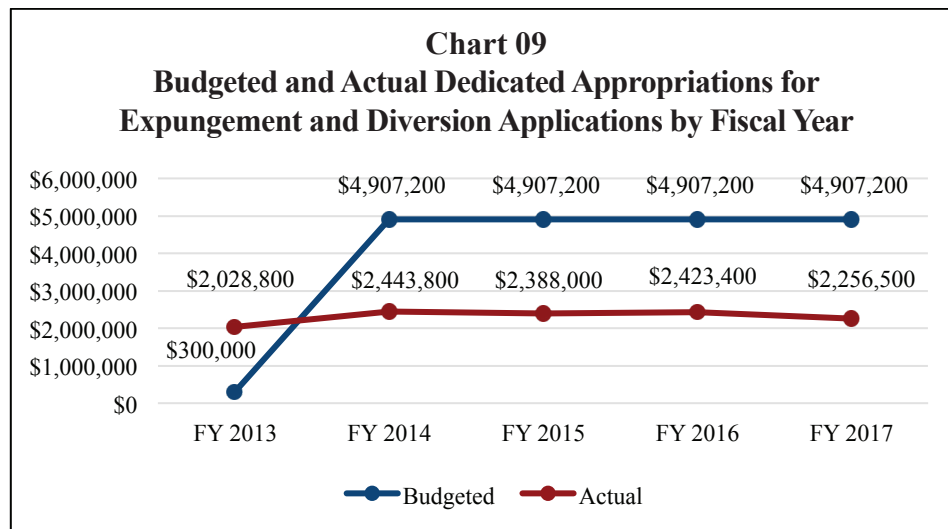


Source: TBI finalized work programs and Edison accounting records.



Source: TBI finalized work programs and Edison accounting records.

Both TBI and F&A should have detected and corrected material estimation errors during the budget process.



Source: TBI finalized work programs and Edison accounting records.

For the **December 2017 performance audit of the Tennessee Bureau of Investigation**, the Comptroller's Office performed a review of expungement revenue collections between May 1, 2014, to July 31, 2017. Based on this review, the following observation was noted:

**Observation 2:** Management did not ensure that the bureau collected all expungement revenue.

As noted in the report, "the Fiscal Services Unit did not reconcile the expungements processed by the criminal records unit with revenues and agency fee reports from the local court systems. As a result, management could not be assured that it collected all expungement revenues." TBI was unable to reconcile its expungement data with the data housed in the Administrative Office of the Courts' information systems. Beginning in March 2017, TBI's Criminal Records and Fiscal Services units have worked with the Administrative Office of the Courts to remedy the deficiency.

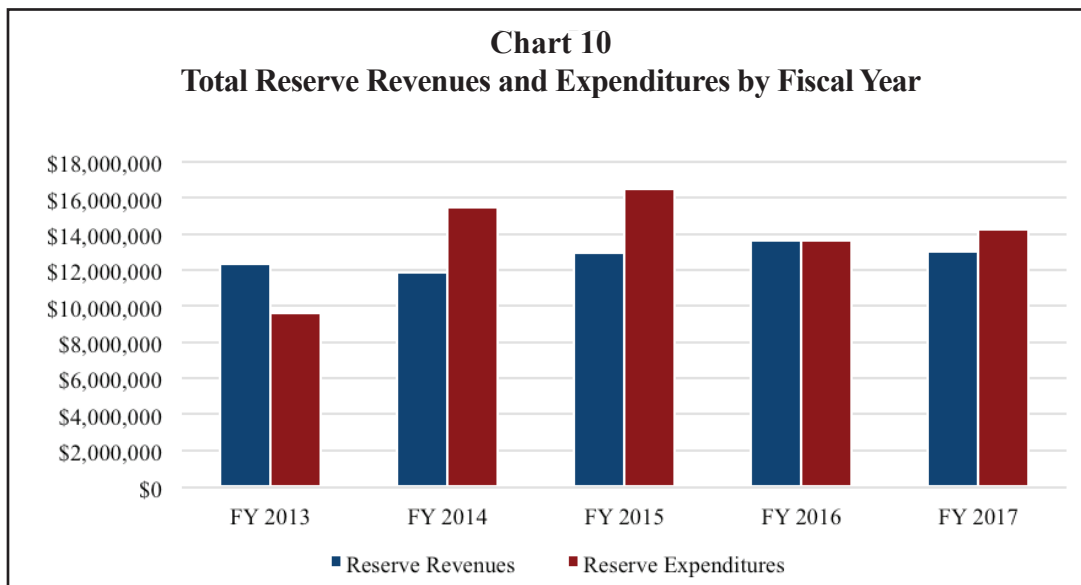
In the budget process, F&A creates the work program for the agency, including revenue and expenditure estimation amounts, from the prior year's work program. The agency reviews and submits any revisions to the base budget to F&A for review, approval, and incorporation into the Governor's budget proposal. Due to the timing of the budget process, both F&A and TBI must rely on incomplete information. As noted in the annual budget process overview exhibited in **Appendix I**, to estimate items for fiscal year 2017, F&A and TBI only have actual amounts for fiscal year 2015 and estimates with only three months of data for fiscal year 2016; therefore, a forecasting error made for fiscal year 2016 can be repeated in fiscal year 2017 before actual data is available at the end of fiscal year 2016.



### 3. TBI relied on its reserve funds for ongoing operations instead of requesting cost increases during the budget process.

As noted in the background section, each year since fiscal year 2014, TBI has unofficially incorporated its reserve funds into its budget process. The Comptroller's Office was unable to determine how much of each reserve fund went to the funds' primary operational expenditures or to general operational efficiency; however, reserve funds' revenues fell below expenditures since fiscal year 2014, as exhibited in **Chart 10**.

Management stated that the practice of using reserve funds has allowed TBI to avoid layoffs and operational gaps that would otherwise have occurred due to its mandatory budget reductions and reversion targets. TBI management added that it was their belief that cost increases, or increases to the base budget, would not be approved during the Governor's budget process. Therefore, TBI used the resources it could access, including reserve funds, to operate.



Source: Edison accounting records.

## BUDGET AND FISCAL OPERATIONS

In the previous five years, TBI has only requested one cost increase during the budget process. In its budget request for fiscal year 2017, submitted in October 2015, TBI requested a cost increase to fund six additional agents (see **Exhibit 2**). According to TBI management, F&A initially approved the request, but it was ultimately not included in the Governor's budget proposal. Afterward, the General Assembly provided additional appropriations to fund four of the six originally requested positions.

### Exhibit 2

#### Excerpt from TBI's Fiscal Year 2017 Budget Submission Requesting Additional Agents

Tennessee Budget Request System					
Fiscal Year 2016-2017 Program Cost Increase Request Detail					
348.00 Tennessee Bureau of Investigation					
348.00 Tennessee Bureau of Investigation					
Priority:	1	Address Digital Forensics Caseload Increase			
Dept Grp:	UNASSIGNED				
Expenditures			Funding		
Regular Salaries:	\$367,200	Awards & Indem.:	\$0	State Appn.:	\$1,324,900
Longevity:	\$7,200	Grants & Subsidies:	\$12,200	Federal Revenue:	\$0
Overtime:	\$0	Unclassified:	\$60,000	Counties:	\$0
Benefits:	\$99,900	Inventory:	\$0	Cities:	\$0
Travel:	\$18,700	Equipment:	\$318,000	Non-Gov't:	\$0
Printing & Dupl.:	\$0	Land:	\$0	Current Services:	\$0
Utilities & Fuel:	\$300	Buildings:	\$0	Inter-Dept.:	\$0
Communications:	\$2,900	Discounts Lost:	\$0	Reserves:	\$0
Maintenance:	\$0	Highway Const.:	\$0		
Prof. Svcs-3rd Pty :	\$152,600	Training:	\$0		
Supplies:	\$177,000	Computer Related:	\$13,500	Full-Time:	6
Rentals & Ins.:	\$0	Prof.Svcs.-St. Agys:	\$57,900	Part-Time:	0
Motor Veh. Oper.:	\$37,500	Debt Retirement:	\$0	Seasonal:	0
Summary		Personnel Total:	\$474,300	Total Funding:	\$1,324,900
		Other Total:	\$850,600	Total Positions:	6
		Total Expenditures.:	\$1,324,900		

### 4. Increased F&A oversight could threaten TBI's independence.

#### Background

In its February 2017 review of TBI's fiscal activities, F&A recommended absorbing the bureau's Fiscal Services into its Centralized Accounting Division. F&A also recommended dividing TBI's one allotment code into separate codes to improve financial transparency and monitoring. Considering TBI's statutory independence and the potential control F&A could exert over the bureau's operations through its financial activities, increased F&A oversight could impair TBI's mandated independence from the legislative and executive branches, which is necessary for the bureau to be able to independently investigate elected officials, including members of the General Assembly and the Governor.

#### Centralized Accounting

In June 2013, the Governor issued Executive Order 30, "An Order Regarding Centralized Accounting by F&A," thereby establishing centralized accounting for the purposes stated in

**Exhibit 3.**

#### **Exhibit 3** **Excerpt from Executive Order 30**

**WHEREAS**, centralized accounting will greatly enhance the ability to maintain and close the accounting records to prepare timely interim reports and timely comprehensive annual financial reports; and

Centralized Accounting, housed within F&A, established a schedule to absorb the fiscal services of various state agencies into F&A. Within this list of agencies, the Governor included TBI, but since the bureau's management disagreed with the Governor's authority to move its fiscal services, F&A did not pursue the transfer of any of TBI's financial activities at that time.

In its February 2017 recommendations for improving TBI's fiscal operations, F&A again broached the topic of pooling TBI's Fiscal Services Unit into Centralized Accounting. Based on the review of current TBI statutory organization, the Comptroller's Office believes that this oversight is improper and would infringe upon TBI's activities as an agency independent of the executive branch. This change would give F&A, an executive agency, direct control over TBI's fiscal activities, and as such, the Governor could exert influence over TBI's operations.

#### Additional Allotment Codes

Currently, TBI uses one allotment code for its financial reporting. In February 2017, F&A recommended dividing TBI's operations into the following three allotment codes to increase transparency and accountability for financial reporting: administration, investigation, and forensic sciences. Based on F&A's analysis, administration costs would remain static each year, whereas investigation and forensic sciences would fluctuate. The additional allotment codes would demonstrate which of the two areas, investigations or forensics, would be in greater demand and which would draw on specific revenue sources. In its recommendation, F&A suggested that transfer authority between TBI's allotment codes should be delegated to the Commissioner of F&A.

#### **Allotment Codes and Transferring Funds**

Many state agencies have multiple allotment codes. These codes represent an agency's discrete units or programs. If an agency has more than one allotment code, it may need to transfer funds from one allotment code to another, for instance, to compensate a revenue shortfall in one unit with the funding from another.

Typically, to transfer funds between allotment codes, an agency requires the approval of both the Speaker of the Tennessee House of Representatives and the Speaker of the Senate. In the annual appropriations bill, the General Assembly grants the Commissioner of F&A the authority to transfer funds between specific allotment codes to expedite the administrative process.

Under current statute, the TBI Director would have to request a fund transfer from one allotment code to another. Since either the Speakers of the House and Senate or F&A must approve the transfers between allotment codes, the Speakers and/or F&A would exert direct control over TBI funding decisions, thus jeopardizing the bureau's independence when investigating elected officials of either branch. Based on the review of the F&A Commissioner's current transfer authorities, the Office of the Attorney General and Reporter (a judicial branch agency) and the Office of the Comptroller of the Treasury (a legislative branch agency) were not included in F&A Commissioner's current transfer authority provisions; instead, these agencies require the standard approval from the Speakers.



### TBI Fiscal Management

Although the Comptroller's Office disagrees with increased F&A oversight, the office does recommend overall that TBI management adhere to established statewide policies and procedures for general administrative operations, including the statewide policies established by F&A and the Department of General Services' Central Procurement Office. By electing to follow these statewide policies and procedures for budget, procurement, human resources, and other similar administrative policies, TBI management can benefit from effective and efficient government practices without compromising its investigative and law enforcement mission. As an alternative, TBI could develop its own policies that are as stringent as the established statewide policies.

#### 5. TBI should continue its efforts to monitor and strengthen its revenue collection activities.

State statute provides certain fee collections as a funding mechanism for TBI; however, these fees are actually collected by other state agencies, requiring TBI fiscal staff to coordinate with those agencies to track the revenue and fee collections it will receive each fiscal year. For instance, TBI directly benefits from the Intoxicant Testing and Drug Testing fees, which the Department of Revenue collects and holds in reserve until the end of the year. As a result, TBI fiscal staff must obtain and incorporate revenue information when estimating its budget needs each budget cycle.

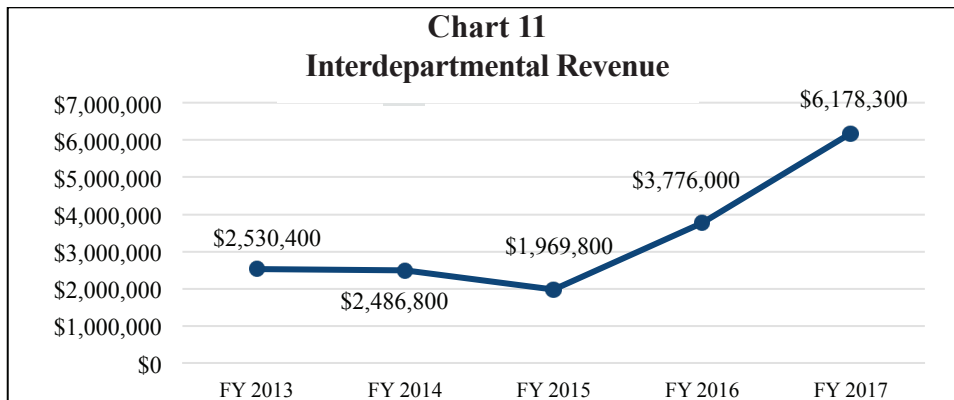
The Comptroller's Office also found that TBI fiscal staff have been challenged to track and reconcile some fees to the budgeted funding source when TBI provides services. These fees, including drug testing, intoxicant testing, criminal expungement, and diversion request fees, have been classified by F&A's Division of Accounts and reported as dedicated state appropriations, even though such fees are for current services.

Although the difference in terms may seem minor, the differences impact TBI fiscal staff's ability to track and monitor fees that are associated with reserve and carry forward accounts. These reserves and carry forward accounts also require careful monitoring in the budget process. Based on the review of TBI's fee classifications, F&A established a specific account for sex offender registry fees so that total payments could be tracked, but this account was not used. Following discussions with the Comptroller's Office in October 2017, F&A activated the account code in the Edison accounting system.



Since fiscal year 2013, TBI's actual interdepartmental revenues have increased from \$2.5 million to \$6.2 million, as shown in **Chart 11**.





Source: Edison accounting records.

Even though interdepartmental revenues have increased, the Comptroller's Office identified certain areas in which TBI could strengthen its revenue collections.<sup>o</sup> One example involves Sex Offender Registry fees.

The Tennessee Department of Correction remits Sex Offender Registry fees to TBI. When TBI special agents and the TBI Fiscal Director compared receipts of Sex Offender Registry fees to the number of sex offender convictions in October 2016, though, they determined that TBI had not received the full amount of revenues it was due.

According to the TBI Fiscal Director and the Department of Correction's Chief Financial Officer, TBI, the Department of Correction, and F&A are jointly working to remedy the reporting deficiencies that have resulted in lost interagency revenues. Because of the limitations of the Department of Correction's and TBI's information systems, neither agency could determine the amount of unremitted payments prior to July 1, 2012. After a review of its procedures and reporting, the Department of Correction decided to transfer \$75,000 to TBI for previously unremitted fees from July 1, 2012, through July 1, 2017.<sup>p</sup>

TBI should continue its efforts to monitor and strengthen its interdepartmental revenue collection activities by reviewing other fees and revenues collected by other departments.

For the December 2017 performance audit of the Tennessee Bureau of Investigation, the Comptroller's Office performed a review of Sex Offender Registry fee collections between May 1, 2014, to July 31, 2017. Based on this review, the office noted the following finding:

**Finding 2:** The Criminal Intelligence Unit and the Fiscal Services Unit lacked sufficient procedures for collecting sex offender registration fees from registering agencies and did not always follow existing procedures, resulting in uncollected fees.

As noted in the report, "when management does not ensure that it collects the bureau's portion of the sex offender registration fees from registering agencies, it risks losing funds that could be used to defray its expenses and further the bureau's mission."

<sup>o</sup> To form this conclusion, the Comptroller's Office reviewed interdepartmental transfers and interviewed key TBI personnel.

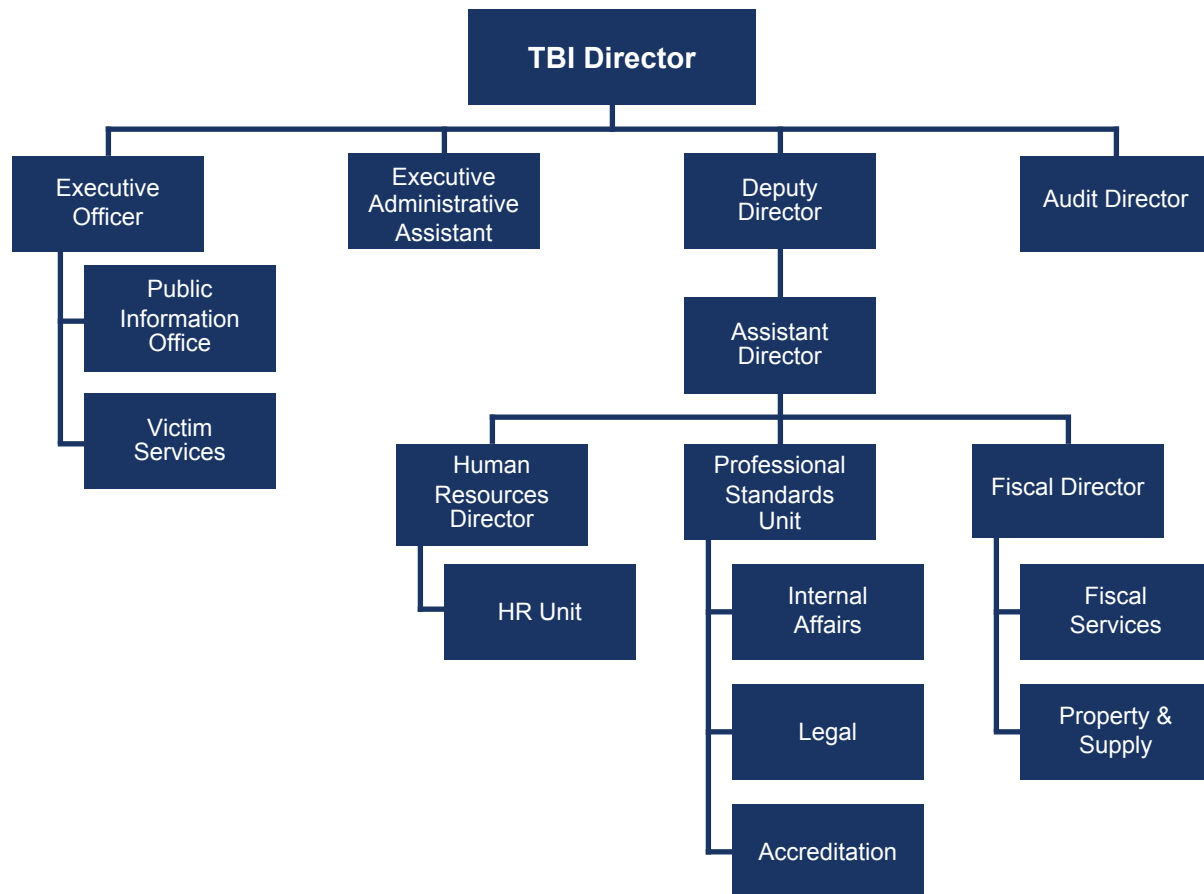
<sup>p</sup> The \$75,000 amount was provided by the Department of Correction's Chief Financial Officer. The Comptroller's Office did not perform audit procedures to verify the accuracy or sufficiency of the remedial amount.

## APPENDIX I

## Timeline for the Budget of July 1, 2016 through June 30, 2017

<b>August-September 2015</b>	F&A provided instructions to agencies on how to submit their budget requests. These requests used the recurring funding included in the prior year's work program as a starting point.
<b>October 1, 2015</b>	Agencies submitted final budget requests, including proposed budget increases, to F&A Budget Office.
<b>November-December 2015</b>	Select agencies presented their budgets to the Governor.  Agencies appeared before the Governor and F&A officials for official budget hearings.
<b>February 1, 2016</b>	The Governor's proposed budget was presented to the General Assembly
<b>April-May 2016</b>	The General Assembly approved the budget and passed the appropriations bill.
<b>June-August 2016</b>	F&A Budget Office constructed the work program for each agency to add all legislation and amendments passed by the General Assembly for the current budget.
<b>September 2016</b>	F&A distributed the completed work program to each agency.

**APPENDIX II**  
**Tennessee Bureau of Investigation**  
**Administrative Services Division Organization Chart**



Source: Obtained from the TBI Internal Audit Director.

# APPENDIX III TBI Expenditure and Funding Summary for Fiscal Years 2013 to 2017

TBI Expenditures and Funding Summary for FY 2013-2017																								
Account	Description	FY13 to FY14			FY 2014			FY14 to FY15			FY 2015			FY15 to FY16			FY 2016			FY16 to FY17			5 Year Average	5 Year Increase (Decrease)
		FY 2013	Percentage Increase (Decrease)	Actual	FY 2014	Percentage Increase (Decrease)	Actual	FY 2015	Percentage Increase (Decrease)	Actual	FY 2016	Percentage Increase (Decrease)	Actual	FY 2017	Percentage Increase (Decrease)	Actual (est.)								
Payroll Expenditures	Regular Salaries	\$ 25,086,100	12.22%	\$ 3,066,200	\$ 28,152,300	3.91%	\$ 29,252,300	2.83%	\$ 827,500	\$ 30,079,800	2.83%	\$ 310,799,800	\$ 31,606,100	\$ 28,835,320	5.07%	\$ 6,520,000								
	Longevity	\$ 632,700	0.52%	\$ 3,300	\$ 636,000	-1.87%	\$ 624,100	45.23%	\$ 282,400	\$ 906,500	45.23%	\$ 1,306,500	\$ 1,306,500	\$ 821,160	44.13%	\$ 273,800								
	Overtime	\$ 1,134,700	9.86%	\$ 9,500	\$ 1,144,200	-1.67%	\$ 942,000	16.57%	\$ 156,100	\$ 1,098,100	16.57%	\$ 1,098,100	\$ 1,352,800	\$ 1,134,360	23.19%	\$ 218,100								
	Benefits	\$ 1,117,400	10.99%	\$ 1,101,700	\$ 12,275,700	3.21%	\$ 12,670,100	3.39%	\$ 295,700	\$ 12,965,800	3.39%	\$ 12,965,800	\$ 13,551,400	\$ 12,527,400	4.52%	\$ 2,377,400								
		\$ 38,027,500		\$ 4,180,700	\$ 42,208,200	3.03%	\$ 43,488,500	2.59%	\$ 1,561,700	\$ 45,050,200	2.59%	\$ 45,050,200	\$ 47,816,800	\$ 43,318,240	6.14%	\$ 9,789,300								
	Travel	\$ 538,800	27.52%	\$ 148,300	\$ 687,100	-17.92%	\$ 564,000	16.51%	\$ 93,100	\$ 657,100	16.51%	\$ 657,100	\$ 700,300	\$ 629,460	6.57%	\$ 161,500								
	Printing & Duplicating	\$ 36,400	82.14%	\$ 29,900	\$ 66,300	-100.00%	\$ -	N/A	\$ 25,100	\$ 25,100	N/A	\$ 25,100	\$ -	\$ 25,560	-100.00%	\$ 36,400								
	Utilities & Fuel	\$ 12,800	-40.78%	\$ (100)	\$ 12,700	70.87%	\$ 21,700	62.67%	\$ 13,600	\$ 35,300	62.67%	\$ 35,300	\$ 39,000	\$ 24,300	104.88%	\$ 26,200								
	Communications	\$ 308,100	-19.67%	\$ (60,600)	\$ 247,500	-4.20%	\$ 247,000	16.76%	\$ 41,400	\$ 288,400	16.76%	\$ 288,400	\$ 410,700	\$ 274,200	23.15%	\$ 281,500								
	Maintenance	\$ 410,300	68.841%	\$ 280,700	\$ 691,000	4.15%	\$ 719,700	-38.13%	\$ (274,400)	\$ 445,300	-38.13%	\$ 445,300	\$ 480,700	\$ 535,400	-7.77%	\$ 400								
Professional Services 3rd Party	Professional Services 3rd Party	\$ 4,903,100	-7.66%	\$ (375,500)	\$ 4,527,600	15.24%	\$ 5,217,800	17.62%	\$ 795,700	\$ 6,013,500	17.62%	\$ 6,013,500	\$ 5,224,600	\$ 5,177,320	3.12%	\$ 321,500								
	Supplies & Materials	\$ 2,454,800	28.24%	\$ 693,300	\$ 3,148,100	-17.20%	\$ 2,606,600	15.24%	\$ 459,900	\$ 3,066,500	15.24%	\$ 3,066,500	\$ 3,403,600	\$ 2,935,920	10.99%	\$ 948,800								
	Rentals & Insurance	\$ 115,400	26.00%	\$ 30,000	\$ 145,400	473.59%	\$ 834,000	97.10%	\$ (409,500)	\$ 424,500	97.10%	\$ 424,500	\$ 1,213,400	\$ 546,540	5.78%	\$ 1,098,000								
	Motor Vehicle Operations	\$ 137,400	31.88%	\$ 43,800	\$ 181,200	-24.39%	\$ 137,000	842.11%	\$ 16,000	\$ 17,900	842.11%	\$ 17,900	\$ 3,400	\$ 5,620	600	\$ 600								
	Awards & Indemnities	\$ 2,800	-25.00%	\$ (700)	\$ 2,100	-9.52%	\$ 1,900	47.47%	\$ (299,800)	\$ 4,835,700	47.47%	\$ 4,835,700	\$ 793,200	\$ 4,033,680	-68.77%	\$ (6,070,600)								
	Grants & Subsidies	\$ 6,863,800	25.18%	\$ (1,728,300)	\$ 5,135,500	-5.84%	\$ 4,835,700	31.63%	\$ 127,400	\$ 530,200	31.63%	\$ 530,200	\$ 504,100	\$ 417,340	-9.92%	\$ 192,500								
	Unclassified	\$ 311,600	N/A	\$ 26,400	\$ 338,000	N/A	\$ 402,800	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
	Inventory	\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
	Equipment	\$ 2,340,600	78.74%	\$ 1,843,100	\$ 4,183,700	-57.31%	\$ 1,786,000	-24.60%	\$ (439,400)	\$ 1,346,600	-24.60%	\$ 1,346,600	\$ 2,721,900	\$ 2,475,760	102.13%	\$ 381,300								
	Land	\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Discussions Lost	Discussions Lost	\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
	Highway Construction	\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
	Training	\$ 491,200	84.04%	\$ 412,800	\$ 904,000	-72.59%	\$ 247,800	193.79%	\$ 480,200	\$ 728,000	193.79%	\$ 728,000	\$ 522,800	\$ 578,760	-28.19%	\$ 10,000								
	Computer Related	\$ 4,737,700	-32.51%	\$ (1,540,300)	\$ 3,197,400	-10.50%	\$ 2,861,800	0.52%	\$ 14,900	\$ 2,876,700	0.52%	\$ 2,876,700	\$ 4,961,500	\$ 3,727,020	72.47%	\$ 223,800								
	Professional Services State Agencies	\$ 10,388,800	15.25%	\$ 1,584,800	\$ 11,973,600	-4.26%	\$ 11,463,300	-2.85%	\$ (326,500)	\$ 11,136,800	-2.85%	\$ 11,136,800	\$ 12,014,500	\$ 11,395,400	7.88%	\$ 1,623,700								
	Debt Retirement	\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
		\$ 34,053,600	41.77%	\$ 1,419,700	\$ 35,473,300	-9.94%	\$ 31,947,100	-4.84%	\$ (1,545,000)	\$ 30,402,100	-4.84%	\$ 30,402,100	\$ 33,088,600	\$ 32,992,940	8.84%	\$ (965,000)								
		\$ 72,081,100	7.77%	\$ 5,600,400	\$ 77,681,500	-2.89%	\$ 75,435,600	0.02%	\$ 16,700	\$ 75,452,300	0.02%	\$ 75,452,300	\$ 80,905,400	\$ 76,311,180	7.23%	\$ 8,824,300								
	State Appropriation	State Appropriation	\$ 371,851,100	18.33%	\$ 6,815,100	\$ 44,000,200	-6.75%	\$ 41,030,700	0.48%	\$ 197,400	\$ 41,228,100	0.48%	\$ 41,228,100	\$ 48,917,200	\$ 42,472,260	18.65%	\$ 11,732,100							
		Federal Revenue	\$ 13,390,600	-17.83%	\$ (2,387,900)	\$ 11,002,700	-0.32%	\$ 10,967,600	4.73%	\$ 518,700	\$ 11,486,300	4.73%	\$ 11,486,300	\$ 7,646,000	\$ 10,898,640	-33.43%	\$ (5,744,600)							
Courtes		\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Cities		\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Non-Governmental		\$ -	N/A	\$ -	\$ -	N/A	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
Current Services		\$ 1,871,500	-12.82%	\$ (2,399,200)	\$ 16,316,700	2.34%	\$ 16,698,000	9.75%	\$ 1,627,300	\$ 18,325,300	9.75%	\$ 18,325,300	\$ 18,163,900	\$ 17,643,960	-0.88%	\$ (557,000)								
Inter-Departmental		\$ 2,530,400	-17.22%	\$ (43,600)	\$ 2,486,800	-20.99%	\$ 1,969,800	91.69%	\$ 1,806,200	\$ 3,776,000	91.69%	\$ 3,776,000	\$ 6,178,300	\$ 3,388,260	63.62%	\$ 3,647,900								
Reserves	\$ 259,100	1395.60%	\$ 1,616,000	\$ 3,875,100	23.08%	\$ 4,769,500	-80.25%	\$ (4,132,000)	\$ 636,600	-80.25%	\$ 636,600	\$ 80,905,400	\$ 1,908,060	-100.00%	\$ (250,100)									
	\$ 72,081,100	7.77%	\$ 5,600,400	\$ 77,681,500	-2.89%	\$ 75,435,600	0.02%	\$ 16,700	\$ 75,452,300	0.02%	\$ 75,452,300	\$ 80,905,400	\$ 76,311,180	7.23%	\$ 8,824,300									

**Footnotes**  
**FN1**—The Department of Finance and Administration has not yet closed the fiscal year-ended 2017; therefore, the amounts shown below are not finalized and are subject to change. Because Edison does not account for TBI's state appropriations as a funding source beyond TBI's dedicated state appropriation accounts, the State Appropriation amount is a plug, calculated as the difference between total expenditures and federal, current services, and interdepartmental revenues respectively. Additionally, we did not attempt to calculate (i.e., estimate) reserves as a funding source because the fiscal year has not yet been closed. Unless noted otherwise, all other amounts shown for FY 2013-2016 reflect those reported by F&A in the State's Annual Budget documents for each year respectively.

## APPENDIX IV

### TBI Fiscal Year Summaries

	TBI 2012-2013 Fiscal Year Summary										FY 2014	
	FY 2013					FY 2013					FY 2014	
	Base Budget	Cost Increase	Base Budget + Cost Increase	FY 2013 Proposed Reduction #1	FY 2013 Proposed Reduction #2	FY 2013 Total Proposed Reductions	FY 2013 Total Budget	FY 2013 State	FY 2013 Budget	FY 2013 Actual	FY 2013 Variance (Negative)	FY 2014 Base Budget
70100 Regular Salaries	\$ 24,013,400	\$ -	\$ 24,013,400	\$ (159,000)	\$ (913,500)	\$ (1,072,500)	\$ 22,940,900	\$ 23,831,500	\$ 23,831,500	\$ 25,086,100	\$ 958,600	\$ 25,086,100
70102 Longevity	\$ 645,300	\$ -	\$ 645,300	\$ -	\$ -	\$ -	\$ 621,900	\$ 667,700	\$ 667,700	\$ 632,700	\$ 35,000	\$ 667,700
70104 Overtime	\$ 626,100	\$ -	\$ 626,100	\$ -	\$ -	\$ -	\$ 626,100	\$ 626,100	\$ 626,100	\$ 1,134,700	\$ (8,600)	\$ 1,126,100
70300 Benefits	\$ 10,695,200	\$ -	\$ 10,695,200	\$ (71,300)	\$ (469,500)	\$ (540,800)	\$ 10,154,400	\$ 10,623,000	\$ 10,623,000	\$ 11,136,100	\$ 376,700	\$ 11,396,100
<b>Payroll Expenditures</b>	<b>\$ 35,980,000</b>	<b>\$ -</b>	<b>\$ 35,980,000</b>	<b>\$ (231,200)</b>	<b>\$ (1,346,400)</b>	<b>\$ (1,577,600)</b>	<b>\$ 34,402,400</b>	<b>\$ 35,748,800</b>	<b>\$ 35,748,800</b>	<b>\$ 38,027,500</b>	<b>\$ 1,282,000</b>	<b>\$ 38,886,700</b>
70300 Travel	\$ 245,100	\$ -	\$ 245,100	\$ -	\$ -	\$ -	\$ 245,100	\$ 245,100	\$ 245,100	\$ 538,800	\$ (138,700)	\$ 222,400
70400 Printing and Duplicating	\$ 6,200	\$ -	\$ 6,200	\$ -	\$ -	\$ -	\$ 6,200	\$ 6,200	\$ 6,200	\$ 36,400	\$ (5,200)	\$ 31,200
70500 Utilities and Fuel	\$ 5,600	\$ -	\$ 5,600	\$ -	\$ -	\$ -	\$ 5,600	\$ 5,600	\$ 5,600	\$ 12,800	\$ (2,200)	\$ 10,600
70600 Communications	\$ 344,100	\$ -	\$ 344,100	\$ -	\$ -	\$ -	\$ 344,100	\$ 344,100	\$ 344,100	\$ 308,100	\$ 179,900	\$ 345,000
70700 Maintenance	\$ 355,000	\$ -	\$ 355,000	\$ -	\$ -	\$ -	\$ 355,000	\$ 355,000	\$ 355,000	\$ 410,300	\$ (45,300)	\$ 365,000
70800 Professional Services 3rd Party	\$ 4,728,300	\$ 1,000,000	\$ 5,728,300	\$ -	\$ -	\$ -	\$ 5,728,300	\$ 5,728,300	\$ 5,728,300	\$ 6,402,200	\$ 1,506,100	\$ 4,861,000
70900 Supplies and Materials	\$ 1,358,200	\$ -	\$ 1,358,200	\$ -	\$ -	\$ -	\$ 1,358,200	\$ 1,358,200	\$ 1,358,200	\$ 2,458,800	\$ 700,400	\$ 2,546,800
71000 Motor Vehicle Operations	\$ 2,000	\$ 2,000	\$ 4,000	\$ -	\$ -	\$ -	\$ 2,000	\$ 2,000	\$ 2,000	\$ 137,400	\$ (135,400)	\$ 2,000
71100 Motor Vehicle Operations	\$ 2,000	\$ -	\$ 2,000	\$ -	\$ -	\$ -	\$ 2,000	\$ 2,000	\$ 2,000	\$ 137,400	\$ (135,400)	\$ 2,000
71200 Awards and Incentives	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ -	\$ -	\$ 4,000	\$ 4,000	\$ 4,000	\$ 2,800	\$ 1,200	\$ 4,000
71300 Grants and Subsidies	\$ 6,959,100	\$ -	\$ 6,959,100	\$ -	\$ -	\$ -	\$ 6,959,100	\$ 6,959,100	\$ 6,959,100	\$ 7,059,100	\$ 195,300	\$ 6,959,100
71400 Unclassified	\$ 181,400	\$ -	\$ 181,400	\$ -	\$ -	\$ -	\$ 181,400	\$ 181,400	\$ 181,400	\$ 311,600	\$ 473,600	\$ 181,400
71500 Inventory	\$ 3,540,700	\$ 1,000,000	\$ 4,540,700	\$ -	\$ -	\$ -	\$ 4,540,700	\$ 4,540,700	\$ 4,540,700	\$ 2,340,600	\$ 2,040,240	\$ 3,775,100
71600 Equipment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71700 Land	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71800 Buildings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71900 Discounts Lost	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
72000 Highway Construction	\$ 64,100	\$ -	\$ 64,100	\$ -	\$ -	\$ -	\$ 64,100	\$ 64,100	\$ 64,100	\$ 401,200	\$ (117,100)	\$ 384,100
72100 Training	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
72200 Computer Related	\$ 2,904,500	\$ 1,000,000	\$ 3,904,500	\$ -	\$ -	\$ -	\$ 3,904,500	\$ 3,904,500	\$ 3,904,500	\$ 4,737,700	\$ (833,200)	\$ 2,904,500
72300 Professional Services State Agencies	\$ 9,073,100	\$ -	\$ 9,073,100	\$ -	\$ (180,600)	\$ (180,600)	\$ 8,892,500	\$ 9,073,100	\$ 9,073,100	\$ 10,388,800	\$ (1,320,100)	\$ 9,068,700
73100 Debt Retirement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Operational Expenditures</b>	<b>\$ 30,000,200</b>	<b>\$ 3,000,000</b>	<b>\$ 33,000,200</b>	<b>\$ (231,200)</b>	<b>\$ (1,806,600)</b>	<b>\$ (1,806,600)</b>	<b>\$ 32,819,600</b>	<b>\$ 33,000,200</b>	<b>\$ 33,000,200</b>	<b>\$ 34,053,600</b>	<b>\$ 2,609,940</b>	<b>\$ 32,046,700</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 65,980,200</b>	<b>\$ 3,000,000</b>	<b>\$ 68,980,200</b>	<b>\$ (231,200)</b>	<b>\$ (1,527,000)</b>	<b>\$ (1,758,200)</b>	<b>\$ 67,222,000</b>	<b>\$ 68,249,000</b>	<b>\$ 68,249,000</b>	<b>\$ 72,081,100</b>	<b>\$ 4,061,940</b>	<b>\$ 70,933,400</b>
80600 State Appropriation	\$ 36,298,400	\$ -	\$ 36,298,400	\$ (177,200)	\$ (1,527,000)	\$ (1,704,200)	\$ 34,594,200	\$ 36,121,200	\$ 36,121,200	\$ 37,185,100	\$ (5,186,000)	\$ 41,517,500
68001 Federal Revenue	\$ 15,020,700	\$ -	\$ 15,020,700	\$ -	\$ -	\$ -	\$ 15,020,700	\$ 15,020,700	\$ 15,020,700	\$ 13,390,600	\$ (2,078,000)	\$ 15,212,400
68002 Counties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
68050 Cities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
68060 State Governmental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
68080 State Governmental	\$ 12,203,900	\$ -	\$ 12,203,900	\$ -	\$ -	\$ -	\$ 12,203,900	\$ 12,203,900	\$ 12,203,900	\$ 18,715,900	\$ 6,514,300	\$ 12,203,900
68090 State Governmental	\$ 2,457,200	\$ -	\$ 2,457,200	\$ (54,000)	\$ -	\$ (54,000)	\$ 2,403,200	\$ 2,403,200	\$ 2,403,200	\$ 2,530,400	\$ (609,300)	\$ 2,001,900
85000 Reserves	\$ -	\$ 3,000,000	\$ 3,000,000	\$ -	\$ -	\$ -	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	\$ 2,591,100	\$ (2,740,200)	\$ -
<b>Total Funding</b>	<b>\$ 65,980,200</b>	<b>\$ 3,000,000</b>	<b>\$ 68,980,200</b>	<b>\$ (231,200)</b>	<b>\$ (1,527,000)</b>	<b>\$ (1,758,200)</b>	<b>\$ 67,222,000</b>	<b>\$ 68,249,000</b>	<b>\$ 68,249,000</b>	<b>\$ 72,081,100</b>	<b>\$ (4,061,940)</b>	<b>\$ 70,933,400</b>
Full-Time Positions	493	0	493	-6	-18	-24	469	493	493	511	18	498
Seasonal Positions	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Positions</b>	<b>493</b>	<b>0</b>	<b>493</b>	<b>-6</b>	<b>-18</b>	<b>-24</b>	<b>469</b>	<b>493</b>	<b>493</b>	<b>511</b>	<b>18</b>	<b>498</b>

#### Footnotes

**FN1**—Source: Tennessee Bureau of Investigation Annual Budget Request for the Fiscal Year 2012-2013, as submitted to the Commissioner of Finance and Administration on September 29, 2011. TBI proposed a single (1) cost increase of \$3 million to be funded by reserves to upgrade the Morpho Trak Printink Identification System (AFIS). TBI also proposed two (2) base budget reductions; the first proposal included six (6) positions identified as being vacant for more than one (1) year and the second proposal included eliminating 18 full-time positions to meet the five percent (5%) reduction requirement of TBI discretionary base appropriation.

**FN2**—Source: TBI's Work Program Budget File for FY 2013, as derived from the State of Tennessee Budget for Fiscal Year 2012-2013 and presented by Bill Haslam, Governor, to the Members of the 107th General Assembly on January 30, 2012. The Budget File incorporated TBI's proposed cost increase and portions of the proposed reductions without eliminating any positions.

**FN3**—Source: TBI's Work Program Budget File for FY 2013, as provided by the Department of Finance and Administration in October 2012 and Edson budget (i.e., adjustments, amendments, state-wide allotments, expansions and reorganizations, etc.) to the State's Budget for FY 2013 that occurred during legislative deliberation and were included in the Appropriations Bill passed by the 107th General Assembly on April 30, 2012 (PC 1029). The Work Program identifies both recurring and non-recurring appropriations for FY 2013 and the total column reflects the original budget (journal entries (i.e., allotments) entered into Edson for FY 2013. Mid-year revisions include adjustments to the amounts originally allotted and may be requested by TBI or initiated by F&A for various reasons (e.g., to revise expenditure and/or funding allotments as necessary, incorporate unexpected federal funding or transfer funds from one department to another within TBI).

**FN4**—Source: TBI's actual expenditures and funding for the Fiscal Year ended June 30, 2013, as reported in the State's Budget for Fiscal Year 2013-2014 and obtained from Edson for FY 2013. TBI's FY 2013 was closed by F&A on January 9, 2014, and the variance shows the difference between TBI's actual expenditures and funding for FY 2013 and the budget amounts (i.e., allocations) for FY 2013.

**FN5**—TBI's base budget for FY 2014 is derived by subtracting the non-recurring appropriations from the Work Program total for FY 2013. We determined that \$10,000 was moved from Professional Services State Agencies (72500) to Training (72100) for the FY 2014 budget request that was submitted to the Commissioner of Finance and Administration on October 1, 2012.

# BUDGET AND FISCAL OPERATIONS

FNS	TBI 2013-2014 Fiscal Year Summary												FNS4	FNS
	TBI's Budget as Presented January 28, 2013						TBI's Work Program for FY 2014 September 2013							
	FY 2014 Base Budget	FY 2014 Cost Increase	FY 2014 Base Budget + Cost Increase	FY 2014 Proposed Reduction	FY 2014 Total Budget Request	FY 2014 State Budget Title	FY 2014 Increases (Decreases)	FY 2014 Recurring Appropriations	FY 2014 Non-Recurring Appropriations	FY 2014 Work Program Total	FY 2014 Mid-Year Revisions	FY 2014 Allocments at 6/30		
													FY 2014 Actual	FY 2015 Base Budget
Payroll Expenditures	\$ 25,696,800	\$ -	\$ 25,696,800	\$ -	\$ 25,696,800	\$ 26,506,500	\$ 1,143,600	\$ 27,650,100	\$ -	\$ 27,650,100	\$ -	\$ 27,650,100	\$ 28,152,300	\$ 27,650,100
	\$ 667,700	\$ -	\$ 667,700	\$ -	\$ 667,700	\$ 675,400	\$ -	\$ 675,400	\$ -	\$ 675,400	\$ -	\$ 675,400	\$ 636,000	\$ 675,400
	\$ 1,126,100	\$ -	\$ 1,126,100	\$ -	\$ 1,126,100	\$ 766,600	\$ -	\$ 766,600	\$ -	\$ 766,600	\$ -	\$ 766,600	\$ 1,144,200	\$ 766,600
	\$ 11,396,100	\$ -	\$ 11,396,100	\$ -	\$ 11,396,100	\$ 11,441,000	\$ 470,400	\$ 11,911,400	\$ -	\$ 11,911,400	\$ -	\$ 11,911,400	\$ 12,275,700	\$ 11,911,400
	\$ 38,886,700	\$ -	\$ 38,886,700	\$ -	\$ 38,886,700	\$ 39,389,500	\$ 1,614,000	\$ 41,003,500	\$ -	\$ 41,003,500	\$ -	\$ 41,003,500	\$ 42,082,200	\$ 41,003,500
	\$ 222,400	\$ -	\$ 222,400	\$ -	\$ 222,400	\$ 222,400	\$ 180,800	\$ 263,700	\$ 139,500	\$ 403,200	\$ 700	\$ 403,900	\$ 687,100	\$ 263,700
	\$ 31,200	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ 31,200	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ 66,300	\$ 31,200
	\$ 445,500	\$ -	\$ 445,500	\$ -	\$ 445,500	\$ 445,500	\$ -	\$ 445,500	\$ -	\$ 445,500	\$ -	\$ 445,500	\$ 247,500	\$ 445,500
	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 691,000	\$ 365,000
	\$ 4,861,000	\$ -	\$ 4,861,000	\$ -	\$ 4,861,000	\$ 4,861,000	\$ 109,800	\$ 4,970,800	\$ -	\$ 4,970,800	\$ 755,866	\$ 5,726,366	\$ 4,527,600	\$ 1,086,786
	\$ 2,546,300	\$ -	\$ 2,546,300	\$ -	\$ 2,546,300	\$ 2,697,600	\$ 907,920	\$ 2,790,400	\$ 835,120	\$ 3,605,520	\$ -	\$ 3,605,520	\$ 3,148,100	\$ 457,420
	\$ 230,800	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ 230,800	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ 145,400	\$ 85,400
	\$ 77,000	\$ -	\$ 77,000	\$ -	\$ 77,000	\$ 77,000	\$ -	\$ 77,000	\$ -	\$ 77,000	\$ -	\$ 77,000	\$ 181,200	\$ 77,000
	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ 4,000	\$ 603,800	\$ 4,000	\$ 603,800	\$ 607,800	\$ -	\$ 607,800	\$ 2,100	\$ 605,700
	\$ 6,959,100	\$ -	\$ 6,959,100	\$ -	\$ 6,959,100	\$ 6,959,100	\$ 451,800	\$ 6,660,900	\$ 750,000	\$ 7,410,900	\$ -	\$ 7,410,900	\$ 5,135,500	\$ 2,275,400
\$ 181,400	\$ -	\$ 181,400	\$ -	\$ 181,400	\$ 181,400	\$ -	\$ 181,400	\$ -	\$ 181,400	\$ -	\$ 181,400	\$ 338,000	\$ 181,400	
TOTAL EXPENDITURES	\$ 3,775,100	\$ -	\$ 3,775,100	\$ -	\$ 3,775,100	\$ 2,472,300	\$ 171,200	\$ 2,628,000	\$ 15,500	\$ 2,643,500	\$ 2,023,848	\$ 4,667,348	\$ 4,183,700	\$ 483,648
	\$ 7,100	\$ -	\$ 7,100	\$ -	\$ 7,100	\$ 7,100	\$ -	\$ 7,100	\$ -	\$ 7,100	\$ -	\$ 7,100	\$ -	\$ -
	\$ 7,800	\$ -	\$ 7,800	\$ -	\$ 7,800	\$ 7,800	\$ -	\$ 7,800	\$ -	\$ 7,800	\$ -	\$ 7,800	\$ -	\$ -
	\$ 7,900	\$ -	\$ 7,900	\$ -	\$ 7,900	\$ 7,900	\$ -	\$ 7,900	\$ -	\$ 7,900	\$ -	\$ 7,900	\$ -	\$ -
	\$ 7,200	\$ -	\$ 7,200	\$ -	\$ 7,200	\$ 7,200	\$ -	\$ 7,200	\$ -	\$ 7,200	\$ -	\$ 7,200	\$ -	\$ -
	\$ 72,100	\$ -	\$ 72,100	\$ -	\$ 72,100	\$ 374,100	\$ 10,000	\$ 374,100	\$ 10,000	\$ 384,100	\$ -	\$ 384,100	\$ 32,100	\$ 32,100
	\$ 2,904,500	\$ -	\$ 2,904,500	\$ -	\$ 2,904,500	\$ 2,904,500	\$ -	\$ 2,904,500	\$ -	\$ 2,904,500	\$ 542,887	\$ 3,447,087	\$ 3,107,400	\$ 249,687
	\$ 9,058,700	\$ -	\$ 9,058,700	\$ -	\$ 9,058,700	\$ 9,058,700	\$ 90,300	\$ 9,149,000	\$ -	\$ 9,149,000	\$ 2,800,000	\$ 11,949,000	\$ 11,973,600	\$ 24,600
	\$ 32,046,700	\$ -	\$ 32,046,700	\$ -	\$ 32,046,700	\$ 30,895,200	\$ 2,525,620	\$ 31,066,900	\$ 2,353,920	\$ 33,420,820	\$ 6,122,721	\$ 39,543,541	\$ 35,473,300	\$ 4,070,241
	\$ 70,933,400	\$ -	\$ 70,933,400	\$ -	\$ 70,933,400	\$ 70,284,700	\$ 4,139,620	\$ 72,070,400	\$ 2,353,920	\$ 74,424,320	\$ 6,122,721	\$ 80,547,041	\$ 77,681,500	\$ 2,865,541
	\$ 41,517,500	\$ -	\$ 41,517,500	\$ -	\$ 41,517,500	\$ 40,717,500	\$ 3,282,720	\$ 42,296,300	\$ 1,703,920	\$ 44,000,220	\$ 261,239	\$ 43,738,981	\$ 44,000,200	\$ 261,219
	\$ 15,212,400	\$ -	\$ 15,212,400	\$ -	\$ 15,212,400	\$ 15,212,400	\$ (171,900)	\$ 15,040,500	\$ -	\$ 15,040,500	\$ 256,200	\$ 15,296,700	\$ 11,002,700	\$ (4,294,000)
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 12,201,600	\$ -	\$ 12,201,600	\$ -	\$ 12,201,600	\$ 12,201,600	\$ 39,500	\$ 12,241,100	\$ -	\$ 12,241,100	\$ 1,700,000	\$ 13,941,100	\$ 16,316,700	\$ 2,375,600
\$ 2,001,900	\$ -	\$ 2,001,900	\$ -	\$ 2,001,900	\$ 2,153,200	\$ 989,300	\$ 2,492,500	\$ 650,000	\$ 3,142,500	\$ -	\$ 3,142,500	\$ 2,486,800	\$ (655,700)	
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,427,760	\$ 4,427,760	\$ 3,875,100	\$ (552,660)	
\$ 70,933,400	\$ -	\$ 70,933,400	\$ -	\$ 70,933,400	\$ 70,284,700	\$ 4,139,620	\$ 72,070,400	\$ 2,353,920	\$ 74,424,320	\$ 6,122,721	\$ 80,547,041	\$ 77,681,500	\$ (2,865,541)	
Full-Time Positions	498	0	498	0	498	511	6	517	0	517	0	517	517	517
Part-Time Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Seasonal Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Positions	498	0	498	0	498	511	6	517	0	517	0	517	517	517

**FNS1**—Source: Tennessee Bureau of Investigation Annual Budget Request for the Fiscal Year 2013-2014, as submitted to the Commissioner of Finance and Administration on October 1, 2012. TBI did not propose a cost increase or reduction for FY 2014 and the staffing level reflects the recurring base amount from FY 2013 because only three (3) months (i.e., one-quarter) of FY 2013 had passed before the budget request for FY 2014 was submitted.

**FNS2**—Source: TBI's Work Program Budget File for FY 2014, as derived from the State of Tennessee Budget for Fiscal Year 2013-2014 and presented by Bill Haslam, Governor, to the Members of the 108th General Assembly on January 28, 2013. The Budget File includes a reduction of \$648,700 from TBI's budget request (i.e., base budget) for FY 2014, which is approximately 1% of TBI's Discretionary Appropriation for FY 2014, however, the staffing level reflects actual for FY 2013.

**FNS3**—Source: TBI's Work Program for FY 2014, as provided by the Department of Finance and Administration in September 2013 and Ed Edison budget (i.e., allotment) journal entries for FY 2014. The increase (decrease) column reflects any changes (i.e., adjustments, amendments, state-wide allotments, expansions and contractions, etc.) to the State's Budget for FY 2014 that occurred during legislative deliberation and were included in the Appropriations Bill passed by the 108th General Assembly on April 18, 2013 (PC 453). The Work Program identifies both recurring and non-recurring appropriations for FY 2014 and the total column reflects the original budget journal entries (i.e., allotments) entered into Edison for FY 2014. Mid-year revisions include adjustments to the amounts originally allotted and may be requested by TBI or initiated by F&A for various reasons (e.g., to revise expenditure and/or funding allotments as necessary, incorporate unexpected Federal funding, or transfer funds from one department to another within TBI).

**FNS4**—Source: TBI's actual expenditures and funding for the Fiscal Year-ended June 30, 2013, as reported in the State's Budget for Fiscal Year 2013-2014 and obtained from Edison for FY 2014. TBI's FY 2014 was closed by F&A on December 22, 2014, and the variance shows the difference between TBI's actual expenditures and funding for FY 2014 and the budget amounts (i.e., allotments) as revised on June 30, 2014.

**FNS5**—TBI's base budget for FY 2015 is derived by subtracting the non-recurring appropriations from the Work Program total for FY 2014.

TBI 2014-2015 Fiscal Year Summary													FS3			
TBI's Budget as Presented February 2, 2014													FS2			
TBI's Annual Budget Request for FY 2015 Submitted September 24, 2013													FS1			
FY 2015 Base Budget	FY 2015 Cost Increase	FY 2015 Base Budget + Cost Increase	TBI's Annual Budget Request for FY 2015 Submitted September 24, 2013			TBI's Budget as Presented February 2, 2014			TBI's Work Program for FY 2015 September 2, 2014				FY 2015 Actual	FY 2015 Variance Positive (Negative)	FY 2016 Base Budget	
			FY 2015 Proposed Reduction	FY 2015 Proposed Offset	FY 2015 Total Proposed Reduction	FY 2015 Total Budget Request	FY 2015 State Budget File	FY 2015 Increases (Decreases)	FY 2015 Recurring Appropriations	FY 2015 Non-Recurring Appropriations	FY 2015 Work Program Total	FY 2015 Mid-Year Revisions				FY 2015 Allotments at 6/30
\$ 27,650,100	\$ -	\$ 27,650,100	\$ -	\$ -	\$ -	\$ 27,650,100	\$ 28,750,100	\$ -	\$ 1,000,000	\$ 29,750,100	\$ -	\$ 29,750,100	\$ -	\$ 29,750,100	\$ 497,800	\$ 29,750,100
\$ 70,000 Regular Salaries	\$ -	\$ 70,000	\$ -	\$ -	\$ -	\$ 70,000	\$ 675,400	\$ -	\$ -	\$ 675,400	\$ -	\$ 675,400	\$ -	\$ 675,400	\$ 624,100	\$ 75,100
\$ 70,000 Longevity	\$ -	\$ 70,000	\$ -	\$ -	\$ -	\$ 70,000	\$ 766,600	\$ -	\$ -	\$ 766,600	\$ -	\$ 766,600	\$ -	\$ 766,600	\$ 942,000	\$ (175,400)
\$ 70,000 Overtime	\$ -	\$ 70,000	\$ -	\$ -	\$ -	\$ 70,000	\$ 11,100	\$ -	\$ 108,800	\$ 122,900	\$ -	\$ 122,900	\$ -	\$ 122,900	\$ 12,900	\$ 70,000
\$ 70,000 Travel	\$ -	\$ 70,000	\$ -	\$ -	\$ -	\$ 70,000	\$ 11,100	\$ -	\$ 108,800	\$ 122,900	\$ -	\$ 122,900	\$ -	\$ 122,900	\$ 12,900	\$ 70,000
\$ 41,003,500	\$ -	\$ 41,003,500	\$ -	\$ -	\$ -	\$ 41,003,500	\$ 42,103,500	\$ -	\$ 1,108,800	\$ 43,212,300	\$ -	\$ 43,212,300	\$ -	\$ 43,212,300	\$ 43,488,500	\$ 43,212,300
\$ 263,700	\$ -	\$ 263,700	\$ -	\$ -	\$ -	\$ 263,700	\$ 263,700	\$ -	\$ -	\$ 263,700	\$ -	\$ 263,700	\$ -	\$ 263,700	\$ 566,000	\$ 263,700
\$ 31,200 Printing and Duplicating	\$ -	\$ 31,200	\$ -	\$ -	\$ -	\$ 31,200	\$ 31,200	\$ -	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ 21,700	\$ 31,200
\$ 31,200 Utilities and Fuel	\$ -	\$ 31,200	\$ -	\$ -	\$ -	\$ 31,200	\$ 31,200	\$ -	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ -	\$ 31,200	\$ 21,700	\$ 31,200
\$ 365,000	\$ -	\$ 365,000	\$ -	\$ -	\$ -	\$ 365,000	\$ 365,000	\$ -	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 247,000	\$ 445,500
\$ 365,000 Maintenance	\$ -	\$ 365,000	\$ -	\$ -	\$ -	\$ 365,000	\$ 365,000	\$ -	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 247,000	\$ 445,500
\$ 4,970,800	\$ -	\$ 4,970,800	\$ -	\$ -	\$ -	\$ 4,970,800	\$ 4,970,800	\$ -	\$ 6,300	\$ 4,977,100	\$ -	\$ 4,977,100	\$ 152,600	\$ 5,129,700	\$ 5,217,800	\$ (88,100)
\$ 4,970,800 Professional Services 3rd Party	\$ -	\$ 4,970,800	\$ -	\$ -	\$ -	\$ 4,970,800	\$ 4,970,800	\$ -	\$ 6,300	\$ 4,977,100	\$ -	\$ 4,977,100	\$ 152,600	\$ 5,129,700	\$ 5,217,800	\$ (88,100)
\$ 2,770,400	\$ -	\$ 2,770,400	\$ -	\$ -	\$ -	\$ 2,770,400	\$ 2,770,400	\$ -	\$ -	\$ 2,770,400	\$ -	\$ 2,770,400	\$ -	\$ 2,770,400	\$ 2,606,600	\$ 163,800
\$ 2,770,400 Supplies and Materials	\$ -	\$ 2,770,400	\$ -	\$ -	\$ -	\$ 2,770,400	\$ 2,770,400	\$ -	\$ -	\$ 2,770,400	\$ -	\$ 2,770,400	\$ -	\$ 2,770,400	\$ 2,606,600	\$ 163,800
\$ 230,800	\$ -	\$ 230,800	\$ -	\$ -	\$ -	\$ 230,800	\$ 230,800	\$ -	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ 834,000	\$ 230,800
\$ 230,800 Rentals and Insurance	\$ -	\$ 230,800	\$ -	\$ -	\$ -	\$ 230,800	\$ 230,800	\$ -	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ -	\$ 230,800	\$ 834,000	\$ 230,800
\$ 77,000	\$ -	\$ 77,000	\$ -	\$ -	\$ -	\$ 77,000	\$ 77,000	\$ -	\$ -	\$ 77,000	\$ -	\$ 77,000	\$ (22,055)	\$ 53,945	\$ 137,000	\$ (82,055)
\$ 77,000 Motor Vehicle Operations	\$ -	\$ 77,000	\$ -	\$ -	\$ -	\$ 77,000	\$ 77,000	\$ -	\$ -	\$ 77,000	\$ -	\$ 77,000	\$ (22,055)	\$ 53,945	\$ 137,000	\$ (82,055)
\$ 4,000	\$ -	\$ 4,000	\$ -	\$ -	\$ -	\$ 4,000	\$ 4,000	\$ -	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ 1,900	\$ 2,100
\$ 4,000 Awards and Incentives	\$ -	\$ 4,000	\$ -	\$ -	\$ -	\$ 4,000	\$ 4,000	\$ -	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ 1,900	\$ 2,100
\$ 6,669,900	\$ -	\$ 6,669,900	\$ -	\$ -	\$ -	\$ 6,669,900	\$ 6,669,900	\$ -	\$ 246,800	\$ 5,937,600	\$ 1,600,100	\$ 6,907,700	\$ -	\$ 6,907,700	\$ 4,835,700	\$ 2,072,000
\$ 181,160	\$ -	\$ 181,160	\$ -	\$ -	\$ -	\$ 181,160	\$ 181,160	\$ -	\$ -	\$ 181,160	\$ -	\$ 181,160	\$ -	\$ 181,160	\$ 462,800	\$ (281,640)
\$ 181,160 Inventory	\$ -	\$ 181,160	\$ -	\$ -	\$ -	\$ 181,160	\$ 181,160	\$ -	\$ -	\$ 181,160	\$ -	\$ 181,160	\$ -	\$ 181,160	\$ 462,800	\$ (281,640)
\$ 2,628,000	\$ -	\$ 2,628,000	\$ (1,596,500)	\$ 1,596,500	\$ -	\$ 2,628,000	\$ 1,528,000	\$ -	\$ 1,786,000	\$ 1,528,000	\$ -	\$ 1,528,000	\$ 3,850,000	\$ 5,378,000	\$ 1,786,000	\$ 3,592,000
\$ 17,700 Land	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 17,700 Buildings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 17,700 Discounts Lost	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 374,100	\$ -	\$ 374,100	\$ -	\$ -	\$ -	\$ 374,100	\$ 374,100	\$ -	\$ -	\$ 374,100	\$ -	\$ 374,100	\$ -	\$ 374,100	\$ 247,800	\$ 374,100
\$ 2,000 Highway Construction	\$ -	\$ 2,000	\$ -	\$ -	\$ -	\$ 2,000	\$ 2,000	\$ -	\$ -	\$ 2,000	\$ -	\$ 2,000	\$ -	\$ 2,000	\$ 2,000	\$ -
\$ 9,149,000	\$ -	\$ 9,149,000	\$ -	\$ -	\$ -	\$ 9,149,000	\$ 9,149,000	\$ -	\$ (143,200)	\$ 9,005,800	\$ -	\$ 9,005,800	\$ (66,399)	\$ 8,939,401	\$ 11,463,300	\$ 9,005,800
\$ 23,100 Debt Retirement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operational Expenditures	\$ 3,106,690	\$ -	\$ 3,106,690	\$ (1,596,500)	\$ 1,596,500	\$ -	\$ 29,966,900	\$ 29,966,900	\$ 109,900	\$ 28,476,700	\$ 1,600,100	\$ 30,076,800	\$ 3,914,146	\$ 33,990,946	\$ 31,947,100	\$ 28,476,700
TOTAL EXPENDITURES	\$ 72,070,400	\$ -	\$ 72,070,400	\$ (1,596,500)	\$ 1,596,500	\$ -	\$ 72,070,400	\$ 72,070,400	\$ 12,138,200	\$ 71,489,000	\$ 1,600,100	\$ 73,489,100	\$ 3,914,146	\$ 77,003,246	\$ 75,435,600	\$ 71,489,000
\$ 42,296,300	\$ -	\$ 42,296,300	\$ -	\$ 1,596,500	\$ -	\$ 42,296,300	\$ 42,296,300	\$ -	\$ 132,400	\$ 42,324,100	\$ 104,600	\$ 42,428,700	\$ (738,454)	\$ 41,690,246	\$ (659,546)	\$ 42,324,100
\$ 8,801 Federal Revenue	\$ -	\$ 15,044,500	\$ -	\$ -	\$ -	\$ 15,044,500	\$ 15,044,500	\$ -	\$ (50,300)	\$ 14,994,200	\$ -	\$ 14,990,200	\$ 152,600	\$ 15,142,800	\$ 10,967,600	\$ 14,990,200
\$ 889,900 Counties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 889,900 Non-Governmental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 889,900 Non-Governmental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 12,241,100	\$ -	\$ 12,241,100	\$ -	\$ -	\$ -	\$ 12,241,100	\$ 12,241,100	\$ -	\$ (56,000)	\$ 12,185,100	\$ -	\$ 12,185,100	\$ 4,500,000	\$ 16,685,100	\$ 16,698,000	\$ 12,185,100
\$ 889,900 Current Services	\$ -	\$ 12,241,100	\$ -	\$ -	\$ -	\$ 12,241,100	\$ 12,241,100	\$ -	\$ (56,000)	\$ 12,185,100	\$ -	\$ 12,185,100	\$ 4,500,000	\$ 16,685,100	\$ 16,698,000	\$ 12,185,100
\$ 889,900 Inter-Departmental	\$ -	\$ 2,492,500	\$ -	\$ -	\$ -	\$ 2,492,500	\$ 2,492,500	\$ -	\$ 1,192,600	\$ 2,189,600	\$ -	\$ 3,685,100	\$ -	\$ 3,685,100	\$ 1,969,800	\$ (1,715,300)
\$ 890,000 Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,492,500	\$ -	\$ 1,192,600	\$ 2,189,600	\$ -	\$ 3,685,100	\$ -	\$ 3,685,100	\$ 1,969,800	\$ (1,715,300)
TOTAL FUNDING	\$ 72,070,400	\$ -	\$ 72,070,400	\$ (1,596,500)	\$ 1,596,500	\$ -	\$ 72,070,400	\$ 72,070,400	\$ 12,138,200	\$ 71,489,000	\$ 1,600,100	\$ 73,489,100	\$ 3,914,146	\$ 77,003,246	\$ 75,435,600	\$ 71,489,000
Full-Time Positions	517	0	517	0	0	0	517	517	0	517	0	517	0	517	517	0
Part-Time Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Seasonal Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Positions	517	0	517	0	0	0	517	517	0	517	0	517	0	517	517	0

**Footnotes**

NS—Source: Tennessee Bureau of Investigation Annual Budget Request for the Fiscal Year 2014–2015, as submitted to the Commissioner of Finance and Administration on September 26, 2013. TBI did not propose a cost increase; however, TBI proposed a base reduction (equipment) but would be offset by additional dedicated funding in the Drug Testing Fund.

NS—Source: State of Tennessee Recommended Budget, Volume 3, Expenditures by Object and Funding by Source, for Fiscal Year 2014–2015, as presented by Bill Harkin, Governor, to the members of the 108th General Assembly on February 5, 2014. The Budget Title for TBI's proposed cost reduction and offset, but moved \$3,100,000 from Equipment (71600) to Salaries (7000).

NS—Source: TBI's Work Program for FY 2015, as provided by the Department of Finance and Administration in September 2014 (i.e., allotment) journal entries for FY 2015. The decrease (decrease column) reflects any changes (i.e., adjustments, amendments, state-wide all-items, expansions and reorganizations, etc.) to the State's Budget for FY 2015 that occurred during legislative deliberation and were included in the Appropriation Bill passed by the 108th General Assembly (e.g., re-vise expenditure and/or funding program identifier for non-recurring appropriations for FY 2015 and the total column reflects the original budget entries (i.e., allotments) entered into Edson for FY 2015. Mid-year revisions include adjustments to the amounts originally allocated and may be requested by TBI or initiated by TBI for various reasons (e.g., re-vise expenditure and/or funding program identifier for non-recurring appropriations for FY 2015 and the total column reflects the original budget entries).

NS—TBI's actual expenditures and funding in the Fiscal Year ended June 30, 2015, as reported in the State's Budget for FY 2015. TBI's FY 2015 was closed by FDA on January 13, 2016, and the variance shows the difference between TBI's actual expenditures and funding for FY 2015 and the budget amounts (i.e., NS).

NS—TBI's base budget for FY 2016 is derived by subtracting the non-recurring appropriations from the Work Program total for FY 2015.



## SPECIAL REPORT: A Review of the Tennessee Bureau of Investigation – January 2018

**Journals** Tennessee Bureau of Investigation Annual Budget Request for the Fiscal Year 2015-2016, as submitted to the Commissioner of Finance and Administration on September 29, 2014. TBI did not propose a cost increase; however, THJ proposed a base reduction (equipment) that would be partially offset by additional current services revenue in Record Checks.

**Source:** Tennessee State of Tennessee Recommended Budget, Volume 3, Expenditures by Object and Funding by Source, for Fiscal Year 2015-2016, as presented by Bill Haslam, Governor, to the members of the 109th General Assembly on February 7, 2015. The Budget Item 101 incorporated THJ's proposed cost reduction and other. His was an omission of money (20102).

**Notes:** THB's Work Program for FY 2016, as provided by the Department of Finance and Administration in August 2015 and Edition budget for FY 2016. The increase (decrease) column reflects any changes (i.e., adjustments, amendments, state-wide allocations, expansions and reorganizations, etc.) to the State's Budget for FY 2016 that occurred during legislative debate deliberation and were included in the Appropriations Bill passed by the 109th General Assembly on April 16, 2015 (PC 42-7). The Work Program identifies both recurring and non-recurring appropriations for FY 2016 and the total column reflects the original budget journal entries (i.e., allotments) entered into Edison for FY 2016. Mid-year revisions include adjustments to the amounts originally allocated and may be requested by THJ or initiated by the RFA for various reasons (e.g. to revise expenditure and/or funding information). These are reported in the State's Budget for FY 2016. THB's FY 2016 was closed by HCA on January 11, 2017, and the variance shows the difference between THB's actual expenditures and funding for FY 2016 and the budget amounts (i.e., allotments) as revised on June 30, 2016.

**Items:** —THB's Base Budget for FY 2017 derived by subtracting the non-recurring appropriations from the Work Program Budget for FY 2016.

# BUDGET AND FISCAL OPERATIONS

TBI 2016-2017 Fiscal Year Summary														FY18	
FY 2017	TBI's Annual Budget Request for FY 2017 Submitted October 1, 2015				TBI's Budget as Presented February 1, 2016				TBI's Work Program for FY 2017 July 2016				For the Fiscal Year-Ended June 30, 2017		FY 2018 Base Budget
	FY 2017 Base Budget	FY 2017 Cost Increase	Base Budget + Cost Increase	FY 2017 Proposed Reduction	FY 2017 Total Budget Request	FY 2017 State Budget File	FY 2017 Increases (Decreases)	FY 2017 Recurring Appropriations	FY 2017 Non-Recurring Appropriations	FY 2017 Work Program Total	FY 2017 Mid-Year Revisions	FY 2017 Allocations at 6/30	FY 2017 Actual (est.)	Variance Positive (Negative)	
70100 Regular Salaries	\$ 30,865,700	\$ 367,200	\$ 31,232,900	\$ (612,000)	\$ 30,620,900	\$ 30,865,700	\$ 1,600,900	\$ 3,226,600	\$ -	\$ 3,226,600	\$ (353,800)	\$ 31,970,800	\$ 31,606,100	\$ 364,700	\$ 32,226,600
70102 Longevity	\$ 681,400	\$ 7,200	\$ 688,600	\$ (12,000)	\$ 676,600	\$ 681,400	\$ 3,900	\$ 683,300	\$ -	\$ 683,300	\$ 677,300	\$ 1,362,600	\$ 1,366,300	\$ 36,100	\$ 683,300
70104 Overtime	\$ 766,600	\$ -	\$ 766,600	\$ -	\$ 766,600	\$ 766,600	\$ 25,000	\$ 791,600	\$ -	\$ 791,600	\$ 350,000	\$ 1,141,600	\$ 1,352,800	\$ 211,200	\$ 791,600
70200 Benefits	\$ 12,849,700	\$ 99,900	\$ 12,949,600	\$ (156,400)	\$ 12,793,200	\$ 12,849,700	\$ 560,000	\$ 13,409,700	\$ -	\$ 13,409,700	\$ 242,100	\$ 13,651,800	\$ 13,551,400	\$ 100,400	\$ 13,409,700
<b>Payroll Expenditures</b>	<b>\$ 45,163,400</b>	<b>\$ 474,300</b>	<b>\$ 45,637,700</b>	<b>\$ (780,400)</b>	<b>\$ 44,857,300</b>	<b>\$ 45,163,400</b>	<b>\$ 2,249,800</b>	<b>\$ 4,741,200</b>	<b>\$ -</b>	<b>\$ 4,741,200</b>	<b>\$ 713,600</b>	<b>\$ 48,126,800</b>	<b>\$ 47,816,800</b>	<b>\$ 310,000</b>	<b>\$ 47,413,200</b>
70300 Travel	\$ 231,000	\$ 18,700	\$ 249,700	\$ (31,200)	\$ 218,500	\$ 231,000	\$ 12,500	\$ 243,500	\$ -	\$ 243,500	\$ 400,000	\$ 643,500	\$ 700,300	\$ (56,800)	\$ 243,500
70400 Printing and Duplicating	\$ 32,600	\$ -	\$ 32,600	\$ -	\$ 32,600	\$ 32,600	\$ 800	\$ 33,400	\$ -	\$ 33,400	\$ -	\$ 33,400	\$ -	\$ 33,400	\$ 33,400
70500 Utilities and Fuel	\$ 11,000	\$ 300	\$ 11,300	\$ (400)	\$ 10,900	\$ 11,000	\$ 100	\$ 11,100	\$ -	\$ 11,100	\$ -	\$ 11,100	\$ 39,000	\$ (27,900)	\$ 11,100
70600 Communications	\$ 451,500	\$ 2,900	\$ 454,400	\$ (4,800)	\$ 449,600	\$ 451,500	\$ 3,000	\$ 454,500	\$ -	\$ 454,500	\$ -	\$ 454,500	\$ 280,000	\$ 174,500	\$ 454,500
70700 Maintenance	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ -	\$ 365,000	\$ 410,700	\$ (45,700)	\$ 365,000
70800 Professional Services 3rd Party	\$ 5,006,100	\$ 152,600	\$ 5,158,700	\$ -	\$ 5,158,700	\$ 5,006,100	\$ 124,500	\$ 5,013,900	\$ 116,700	\$ 5,130,600	\$ 1,923,300	\$ 7,053,900	\$ 5,224,600	\$ 1,829,300	\$ 5,013,900
70900 Supplies and Materials	\$ 2,472,600	\$ 177,000	\$ 2,649,600	\$ (86,800)	\$ 2,562,800	\$ 2,472,600	\$ 626,800	\$ 2,497,500	\$ 601,900	\$ 3,099,400	\$ 250,000	\$ 3,349,400	\$ 3,403,600	\$ (54,200)	\$ 2,497,500
71000 Rentals and Insurance	\$ 210,800	\$ -	\$ 210,800	\$ -	\$ 210,800	\$ 210,800	\$ -	\$ 210,800	\$ -	\$ 210,800	\$ -	\$ 210,800	\$ 1,213,400	\$ (982,600)	\$ 210,800
71100 Motor Vehicle Operations	\$ 102,000	\$ 37,500	\$ 139,500	\$ (62,500)	\$ 77,000	\$ 102,000	\$ 35,800	\$ 137,800	\$ -	\$ 137,800	\$ -	\$ 137,800	\$ 285,600	\$ (147,800)	\$ 137,800
71200 Awards and Incentives	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ -	\$ 4,000	\$ 3,400	\$ 600	\$ 4,000
71300 Grants and Subsidies	\$ 4,185,600	\$ 12,200	\$ 4,197,800	\$ -	\$ 4,197,800	\$ 4,185,600	\$ 3,875,500	\$ 8,061,100	\$ -	\$ 8,061,100	\$ -	\$ 8,061,100	\$ 793,200	\$ 7,267,900	\$ 4,185,600
71400 Unclassified	\$ 221,400	\$ 60,000	\$ 281,400	\$ -	\$ 281,400	\$ 221,400	\$ 40,000	\$ 261,400	\$ -	\$ 261,400	\$ 300,000	\$ 561,400	\$ 504,100	\$ 57,300	\$ 261,400
71500 Inventory	\$ 1,095,500	\$ 318,000	\$ 1,413,500	\$ -	\$ 1,413,500	\$ 1,095,500	\$ 280,000	\$ 1,375,500	\$ -	\$ 1,375,500	\$ 591,076	\$ 1,966,576	\$ 2,721,900	\$ (752,324)	\$ 1,095,500
71600 Equipment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71700 Land	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71800 Buildings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
71900 Discount Lost	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
72000 Highway Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
72100 Training	\$ 249,000	\$ -	\$ 249,000	\$ -	\$ 249,000	\$ 249,000	\$ -	\$ 249,000	\$ -	\$ 249,000	\$ 450,000	\$ 699,000	\$ 522,800	\$ (176,200)	\$ 249,000
72200 Computer Related	\$ 2,904,500	\$ 13,500	\$ 2,918,000	\$ -	\$ 2,918,000	\$ 2,904,500	\$ -	\$ 2,904,500	\$ -	\$ 2,904,500	\$ -	\$ 2,904,500	\$ 4,961,500	\$ (2,057,000)	\$ 2,904,500
72500 Professional Services State Agencies	\$ 9,134,300	\$ 57,900	\$ 9,192,200	\$ (49,600)	\$ 9,142,600	\$ 9,134,300	\$ 267,400	\$ 9,333,300	\$ 78,400	\$ 9,401,700	\$ 1,500,000	\$ 10,901,700	\$ 12,014,500	\$ (1,112,800)	\$ 9,333,300
73100 Debt Retirement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Operational Expenditures</b>	<b>\$ 26,699,900</b>	<b>\$ 850,600</b>	<b>\$ 27,550,500</b>	<b>\$ (235,900)</b>	<b>\$ 27,314,600</b>	<b>\$ 26,699,900</b>	<b>\$ 5,246,400</b>	<b>\$ 27,013,800</b>	<b>\$ 4,952,500</b>	<b>\$ 31,966,300</b>	<b>\$ 5,414,376</b>	<b>\$ 37,380,676</b>	<b>\$ 33,088,600</b>	<b>\$ 4,292,076</b>	<b>\$ 27,013,800</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 71,863,300</b>	<b>\$ 1,324,900</b>	<b>\$ 73,188,200</b>	<b>\$ (1,015,700)</b>	<b>\$ 72,172,500</b>	<b>\$ 71,863,300</b>	<b>\$ 7,516,200</b>	<b>\$ 74,427,000</b>	<b>\$ 4,952,500</b>	<b>\$ 79,379,500</b>	<b>\$ 6,127,976</b>	<b>\$ 85,507,476</b>	<b>\$ 80,905,400</b>	<b>\$ 4,602,076</b>	<b>\$ 74,427,000</b>
80050 State Appropriation	\$ 41,069,400	\$ 1,324,900	\$ 42,394,300	\$ (1,015,700)	\$ 41,378,600	\$ 41,069,400	\$ 3,455,100	\$ 43,308,400	\$ 1,216,100	\$ 44,524,500	\$ 5,057,576	\$ 49,582,076	\$ 48,917,200	\$ (664,876)	\$ 43,308,400
60001 Federal Revenue	\$ 15,270,800	\$ -	\$ 15,270,800	\$ -	\$ 15,270,800	\$ 15,270,800	\$ 181,100	\$ 15,451,900	\$ 21,400	\$ 15,451,900	\$ 971,100	\$ 15,549,000	\$ 7,646,000	\$ (7,903,000)	\$ 15,451,900
60030 Counties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
60050 Cities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
60060 Non-Governmental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
60080 Current Services	\$ 13,326,900	\$ -	\$ 13,326,900	\$ -	\$ 13,326,900	\$ 13,326,900	\$ 19,800	\$ 13,341,900	\$ 4,800	\$ 13,346,700	\$ -	\$ 13,346,700	\$ 18,163,900	\$ (4,817,200)	\$ 13,341,900
60090 Inter-Departmental	\$ 2,196,200	\$ -	\$ 2,196,200	\$ -	\$ 2,196,200	\$ 2,196,200	\$ 3,860,200	\$ 2,346,200	\$ 3,710,200	\$ 6,056,400	\$ -	\$ 6,056,400	\$ 6,178,300	\$ (121,900)	\$ 2,346,200
83000 Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Funding</b>	<b>\$ 71,863,300</b>	<b>\$ 1,324,900</b>	<b>\$ 73,188,200</b>	<b>\$ (1,015,700)</b>	<b>\$ 72,172,500</b>	<b>\$ 71,863,300</b>	<b>\$ 7,516,200</b>	<b>\$ 74,427,000</b>	<b>\$ 4,952,500</b>	<b>\$ 79,379,500</b>	<b>\$ 6,127,976</b>	<b>\$ 85,507,476</b>	<b>\$ 80,905,400</b>	<b>\$ (4,602,076)</b>	<b>\$ 74,427,000</b>
Full-Time Positions	528	6	534	-10	524	528	12	540	0	540	0	540	540	0	540
Part-Time Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Seasonal Positions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Positions</b>	<b>528</b>	<b>6</b>	<b>534</b>	<b>-10</b>	<b>524</b>	<b>528</b>	<b>12</b>	<b>540</b>	<b>0</b>	<b>540</b>	<b>0</b>	<b>540</b>	<b>540</b>	<b>0</b>	<b>540</b>

**FY18**—Source: Tennessee Bureau of Investigation Annual Budget Request for the Fiscal Year 2016-2017, as submitted to the Commissioner of Finance and Administration on October 1, 2015. TBI proposed a cost increase to address digital forensics caseload increase and also proposed a base reduction that would eliminate ten (10) Special Agent positions consisting of five (5) Criminal Investigators and five (5) Forensic Scientists.

**FY20**—Source: The State of Tennessee Recommended Budget, Volume 3, Expenditures by Object and Funding by Source, for Fiscal Year 2016-2017, as presented by Bill Haulam, Governor, to the members of the 109th General Assembly on February 1, 2016. The Budget File reflects TBI's base budget for FY 2017 (i.e., no increases or reductions were incorporated).

**FY3**—Source: TBI's Work Program for FY 2017, as provided by the Department of Finance and Administration in July 2016 and Edison budget (i.e., allotment) journal entries for FY 2017. The increase (decrease) column reflects any changes (i.e., adjustments, amendments, state-wide allotments, expansions and reorganizations, etc.) to the State's Budget for FY 2017 that occurred during legislative deliberation and were included in the Appropriations Bill passed by the 109th General Assembly on April 14, 2016 (PC 758). The Work Program identifies both recurring and non-recurring appropriations for FY 2017 and the total column reflects the original budget journal entries (i.e., allotments) entered into Edison for FY 2017. Mid-year revisions include adjustments to the amounts originally allotted and may be requested by TBI or initiated by F&A for various reasons (e.g., to revise expenditure and/or funding allotments as necessary, incorporate unexpected federal funding, or transfer funds from one department to another within TBI).

**FY4**—Source: TBI's actual expenditures and funding for the Fiscal Year-ended June 30, 2017, as obtained from Edison and estimated for FY 2017. At the time we completed our fieldwork, F&A had not yet closed TBI's FY 2017; therefore, these amounts are not final and are subject to change. The variance shows the difference between TBI's actual expenditures and estimated funding for FY 2017 and the budget amounts (i.e., allotments) as revised on June 30, 2017.

**FY5**—TBI's base budget for FY 2018 is derived by subtracting the non-recurring appropriations from the Work Program total for FY 2017.

# Procurement of the Pilatus Airplane

Procurement of the  
Pilatus Airplane



The following discussion describes the timeline and history of the Tennessee Bureau of Investigation's (TBI) eventual procurement of the Pilatus airplane. During the procurement process, TBI initially coordinated with F&A and later with the Central Procurement Office (CPO) housed within the Department of General Services. Whereas F&A acts as the chief corporate office of state government and provides services in budget preparation, financial reporting, financial management, and information systems management, CPO is responsible for procuring goods and services and creating cost savings while ensuring transparency and accountability in the procurement and contracting process.



In 2008, TBI began its research to identify an airplane to supplement its aging Cessna Skylane, which was procured in 1999, and to remove its reliance on the Tennessee Department of Transportation's Cessna 208 Caravan. TBI eventually selected a Pilatus PC-12NG with an integrated sensor platform, a significant upgrade to its existing aviation program. Given TBI's specific needs, the airplane procurement was proprietary in nature. CPO Policy 2013-003, "Non-Competitive Procurement," states that a proprietary procurement occurs when a required good or service is restricted to a particular manufacturer. Despite this restriction, a proprietary procurement may still be competitive when the good or service is available through multiple distributors. In the case of the Pilatus airplane, although the procurement was limited to a specific make and model of airplane, multiple vendors could sell or lease the aircraft to the state. The proprietary procurement process is summarized in **Appendix V**.

According to Section 4-56-101(1), *Tennessee Code Annotated*, **procurement** means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services. It also includes all functions that pertain to obtaining any goods or service, including the description of requirements; the selection and solicitation of sources; the preparation and award of a contract; and all phases of contract administration.

### Potential Purchase of the Pilatus Airplane

After its initial 2008 research, TBI initiated preliminary discussions with F&A in 2014 to secure funding to purchase the Pilatus airplane outright.<sup>Q</sup> It is unclear why TBI and F&A did not also engage CPO in these preliminary discussions. As a general rule, while CPO encourages agencies to engage with them early in a procurement process, it is not required during preliminary and exploratory phases. At the time of TBI's preliminary procurement discussions, the State of Tennessee was experiencing a financial crisis. In reaction to the state's financial concerns and in order to close the state's books, F&A mandated statewide budget cuts and swept state agencies' reserve funds.<sup>R</sup> Given the statewide financial situation, TBI and F&A deemed that a direct purchase of this magnitude was not feasible; therefore, TBI pursued a lease of the airplane instead.



---

<sup>Q</sup> Because of the extensive customization of the Pilatus airplane, the Comptroller's Office was unable to determine the market value of a brand-new airplane.

<sup>R</sup> In November 2014, F&A denied TBI the option to carry forward \$6,173,342 in TBI's Handgun Permit Fee account. Pursuant to Section 39-17-1351(p)(1), *Tennessee Code Annotated*, such funds "shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history database." As such, F&A's action to sweep this TBI reserve had no direct impact on the airplane procurement process.

### Attempted Procurement of a 10-Year Capital Lease

In July 2014, TBI engaged CPO and began the procurement process to obtain a capital lease of the Pilatus airplane. The capital lease was intended to cover a 10-year period, at the end of which the lessor would transfer ownership of the airplane to TBI. After evaluating the “best and final offer” (BAFO)<sup>s</sup> from each of the three bidders, CPO awarded the lease contract to the winning bidder in August 2014. The winning vendor and CPO agreed to the basic terms presented in the winning vendor’s BAFO, including the structure and amount of payments, as exhibited in **Table 05**.



**Table 05**  
**Capital Lease Best and Final Offer**

Payment	Amount
Monthly Payment Amount (Rounded):	\$ 73,318
Times Number of Months:	120
Total Payment Cost:	8,798,175
Add Purchase Option:	1
<b>Total Cost:</b>	<b>\$ 8,798,176</b>

After awarding the winning bid, CPO began to finalize the lease agreement; however, CPO was not statutorily authorized to enter into a capital lease agreement. Subsequently, CPO elected to cancel the capital lease procurement event and procure an operating lease instead.



An **operating lease** is a rental agreement wherein the asset remain the lessor’s property but is used by the lessee.

A **capital lease** is a financing arrangement that is structured like an operating lease, but it transfers ownership of the asset from the lessor to the lessee at the end of the lease, sometimes with a discounted transfer purchase option.

<sup>s</sup> A BAFO is the final bid submitted by the potential vendors, indicating the end of the cost-negotiation process.

### Five-Year Operating Lease



In December 2014, upon cancellation of the capital lease event, CPO began a second procurement event to obtain an operating lease of the Pilatus airplane. This new lease event covered a five-year period with no transfer of ownership of the airplane at the end of the lease period. Upon reviewing the BAFO from each of the potential vendors, CPO announced the winning vendor and obtained an operating lease of the Pilatus airplane in March 2015. The lease arrangement had the schedule of payments shown in **Table 06**.

**Table 06**  
**Signed Operating Lease from March 2015**

Payments	Monthly Rate	Yearly Rate
Upon Signing of Lease March 2015:	-	\$ 750,000
February 2016* – January 2017:	66,400	796,800
February 2017 – January 2018:	118,250	1,419,000
February 2018 – January 2019:	103,250	1,239,000
February 2019 – January 2020:	99,850	1,198,200
February 2020 – January 2021:	97,850	1,174,200
<b>Total Cost:</b>		<b>\$ 6,577,200</b>

\*TBI accepted delivery of the airplane in February 2016, almost a year after all parties had signed the lease contract. The delay arose because the vendor had to build a customized airplane—merging two of its existing platforms—to meet TBI’s needs.

### 2017 Purchase of the Pilatus Airplane

In 2017, TBI appeared before the General Assembly in a series of public hearings to discuss its program operations and fiscal situation. In these public hearings, members of the General Assembly asked the bureau to discuss its needs, explain the causes of TBI’s recent budget shortfalls, and provide input on reducing its recurring operational expenditures. In response to the legislative budget hearings, the TBI Director recommended a one-time appropriation to secure the ownership of the leased airplane, thereby eliminating the yearly lease expenditures.



The TBI discussed the potential purchase of the leased Pilatus airplane before the following legislative committees:

**Senate Judiciary Committee** – February 14 and 21, 2017

**House Criminal Justice Committee** – February 15, 2017

**Senate Finance, Ways and Means Committee** – April 18, 2017

Pursuant to Item 27, Section 64, Chapter 460 of the Public Acts of 2017, the General Assembly followed TBI’s and TBI’s recommendation and “appropriated the sum of \$8,000,000 (non-recurring) to the Tennessee bureau of investigation (TBI) for the sole purpose of purchasing of, and acquiring ownership to, the TBI’s airplane used for search and rescue, criminal surveillance, and public safety.” On October 8, 2017, TBI and CPO secured ownership of the airplane that the bureau currently leased and used.

According to the CPO Sourcing Director, the state effectively paid the lessor for the remaining value of the plane. By purchasing the plane from the lessor, TBI avoided both further lease payments and the suspension of flight activities that would have resulted if CPO had started a new procurement event to purchase another airplane. The total lease payments and purchase cost are exhibited in **Table 07**:

**Table 07**  
**Total Lease Payments and Purchase Cost**

Payment	Amount
Payment upon Execution of Lease:	\$ 750,000
Lease Payments February 2016 – August 2017:	1,624,550
Total Lease Expenditures:	2,374,550
Add Purchase Cost:	7,850,000
<b>Total Cost:</b>	<b>\$ 10,224,550</b>

**1. TBI, F&A, and CPO should have proactively ensured cost efficiency throughout the procurement process.**

Based on the testwork performed for this review,<sup>T</sup> TBI substantially complied with CPO policies and pursued cost efficiency to the best of its ability during the procurement of the Pilatus airplane. However, all parties involved—TBI, F&A, and CPO—could have improved the process overall.

CPO urges all agencies to consult its personnel during any procurement event’s initial phases, including preliminary research and analysis. Therefore, TBI and F&A should have included CPO in their 2014 preliminary discussions to secure funding for the plane.

Additionally, CPO attempted to procure a capital lease (as described earlier), going so far as to review final offers and announce a winning bidder. CPO ultimately admitted it was unable to complete the capital lease arrangement due to a lack of statutory authority to enter into capital lease agreements, thereby forcing TBI to procure an operating lease for the airplane. As the state’s primary procurement office, CPO should ensure the state procures goods and services in the most cost-efficient method possible.

Pursuant to Section 5.4.1.2 of CPO’s Procurement Procedures Manual, “Benchmarking and Estimates of Expected Costs,” “price analysis and cost analysis are common tools used in benchmarking and estimating costs” and are used to ensure the fairness and reasonableness of contract price. The procurement manual also states that such analyses “should be conducted for every procurement, contract extension, contract renewal or contract change request.” CPO should therefore ensure it completes a thorough cost or price analysis for every significant procurement or, if such an analysis is impossible, document the reason for the departure from its established procedure.



<sup>T</sup> Testwork for this review consisted of reviewing supporting documentation and CPO policies applicable to the operating lease procurement and subsequent purchase of the Pilatus airplane and conducting interviews with key staff from TBI and CPO.



Furthermore, the Fiscal Review Committee has the authority to review any significant procurement, even if the associated contract does not expressly require the committee's review.<sup>U</sup> As noted in Section 4-56-107(b) (4), *Tennessee Code Annotated*, the committee "is authorized to review any other state contract or contract amendment in accordance with the procedures established in this section without regard to whether the contract or contract amendment meets the requirements of subdivision (b)(1)." This authority encompasses approving or denying any contract. The Fiscal Review Committee currently relies on CPO to provide it with a listing of

contracts that meet the requirement of Section 4-56-107(b)(1); however, the Fiscal Review Committee does not have a procedure in place to ensure that it is aware of other contracts that may be of interest to the committee.

Finally, when the General Assembly provided TBI funds to secure ownership of the airplane, the appropriation bill effectively mandated a sole-source procurement, which is a direct purchase from a single provider.

**Fiscal Review Committee  
Performance Audit Report  
(dated January 2017)**

**Observation 1:** "Committee staff do not discuss or obtain approval from committee members for the types of contracts they seek to review, and staff have not ensured that they receive a complete list of contracts that require review."

**2. TBI should develop a policy that both addresses other agencies' usage of its airplane and establishes a mechanism for recouping costs from those agencies.**

Since TBI accepted delivery of the Pilatus in February 2016, other agencies have requested and received the bureau's permission to use the airplane to benefit their operations (see **Table 08**). TBI, however, did not require—and the other agencies did not volunteer—reimbursement for the costs associated with this additional usage.

**Table 08**  
**Airplane Usage by Other Agencies**

Date	Description
October 7, 2016	Support of U.S. National Guard in relation to Hurricane Matthew relief efforts
November 26, 2016	Support of the Tennessee Division of Forestry with Sevier County fires
November 29, 2016	Further support of the Division of Forestry with Sevier County fires
July 12, 2017	Support of U.S. Marshal activities

A robust policy regarding other agencies' use of TBI's plane would:

- help management establish strong controls over one of TBI's highly scrutinized state resources, its aircraft operations; and
- potentially improve TBI's financial position by matching the benefits of airplane usage with the costs incurred.

**TBI PERFORMANCE  
AUDIT REPORT  
(JANUARY 2018)**

**Finding 1** noted that TBI "did not have sufficient policies over the use of its aircraft and did not ensure that staff followed the requirements set forth in TBI Written Policy 8-6-006, resulting in a lack of clear, consistent documentation to support all flights." The finding noted that TBI management "will not share mission-related information with anyone outside the bureau, in order to protect confidential agents and the integrity of criminal cases [. . .] Although we did not identify any misuse of the aircraft, we were forced to rely on verbal statements, emails, notes on calendars, and news articles, instead of unredacted documents."

**Observation 1** also noted TBI "does not use [aviation] reports to make decisions about how to use the aircraft; instead, it approves and, if necessary, prioritizes requests for the use of the aircraft at the time they are received."

<sup>U</sup> According to Section 4-56-107(b)(1), *Tennessee Code Annotated*, the Fiscal Review Committee must review all "Proposed noncompetitive contracts with a term of more than one (1) year or which contain a provision to allow for extension by either party that would extend the contract beyond twelve (12) months and which have a cumulative value of not less than two hundred fifty thousand dollars (\$250,000), including all possible extensions."

## APPENDIX V

### Proprietary Procurement Flow Chart<sup>v</sup>

#### Justification

- Agency must provide justification and circumstances for limiting competition to a specific item or group of distributors.
- The justification must be approved by the Chief Procurement Officer and the Comptroller of the Treasury via a Special Contract Request.

#### Requisition Approval

- CPO and the purchasing agency estimate the expected cost of the procurement.
- CPO, in communication with F&A's Division of Budget, ensures funding is available for the procurement.
- Such funds are encumbered until the procurement is completed or the requisition is cancelled.

#### Solicitation: Invitation to Bid

- CPO communicates terms, conditions, and specifications to potential bidders.
- Vendors submit bids.
- Cost is negotiated by CPO.

#### Evaluation

- CPO analyzes potential bids and awards the procurement to the lowest bid that meets the terms, conditions, and specifications.
- CPO communicates the identity of the winning vendor to all bidders.

#### Negotiation (Optional)

- CPO may negotiate the final contract with the winning vendor.

#### Contract Review and Approvals

- CPO uploads the contract into Edison and routes the contract for approvals.
- The final contract for procurement must be reviewed by F&A's Division of Budget to ensure funding is available.
- The final contract must be reviewed by the Comptroller of the Treasury's Office of Management Services.
- If the procurement falls under certain statutory requirements, it must also be reviewed before the Fiscal Review Committee.

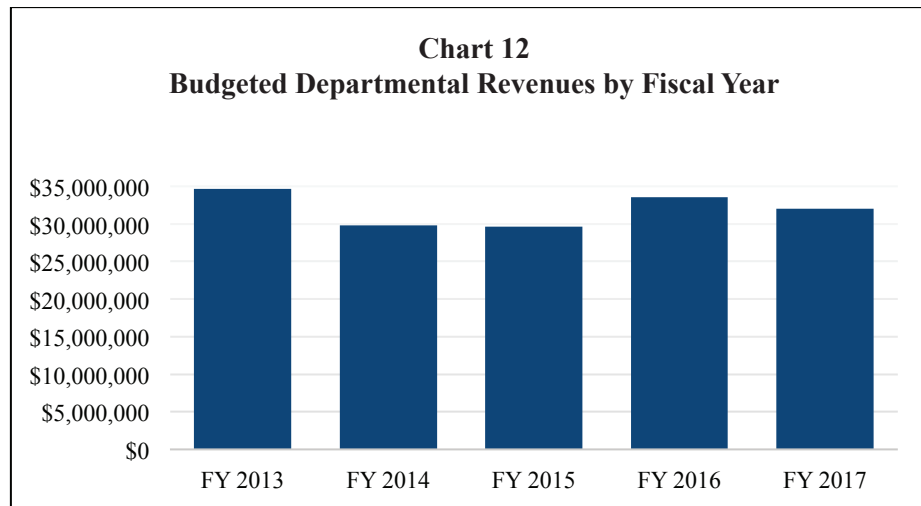
<sup>v</sup> Source: CPO procurement policies and CPO staff.



# Grants and Contracts Administration



A significant amount of TBI's departmental revenue for each year comes from funding from federal programs, or federal revenues, and funding from contracts, which may appear as interdepartmental transfers and fees for current services. Since fiscal year 2013, these departmental revenues accounted for an average of \$30.6 million, or 40 percent, of TBI's budgeted revenues each year. The yearly budgeted amounts of departmental revenues for fiscal years 2013 through 2017 are presented in **Chart 12**.



Source: The budgets for the State of Tennessee for fiscal years 2013 through 2017.

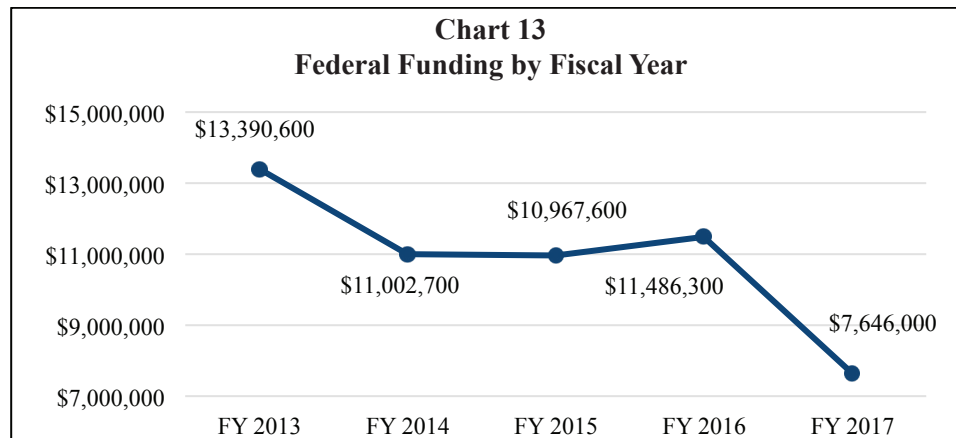
### Federal Grant Award Funding

TBI received federal grant awards in keeping with national initiatives involving law enforcement and collaborated with federal, state, and local agencies to implement these programs. In implementing national programs, TBI worked with state and federal departments, agencies, and offices, including the following:

- the Governor's Task Force on Marijuana Eradication;
- the Tennessee Department of Human Services;
- the Tennessee Department of Military;
- the Tennessee Department of Transportation;
- the Tennessee Highway Safety Office;
- the Tennessee Office of Criminal Justice Programs;
- the U.S. Department of Health and Human Services;
- the U.S. Department of Justice;
- the U.S. Office of National Drug Control Policy;
- the National Highway Traffic Safety Administration; and
- the District Attorney of New York.



Since fiscal year 2013, TBI has experienced decreases in the amount of federal grant award funding it received, as demonstrated in **Chart 13**.



Source: Edison accounting system.

In fiscal year 2013, TBI received \$13.39 million in federal funding. For fiscal year 2017, the bureau received \$7.65 million in federal funding. The primary reason for this significant decrease in federal funding occurred when the Regional Organized Crime Information Center, which administers federal awards for the U.S. Department of Justice, altered its funding structure. Approximately \$4 million in program funds passed through TBI to local law enforcement agencies, but, beginning in December 2015, the Regional Organized Crime Information Center granted funds directly to local law enforcement agencies; thus, the federal revenues and ensuing local expenditures no longer passed through TBI's financial operations.

### Interdepartmental Contracts and Revenues

TBI has contracted with other state agencies to provide training and pre-employment psychological testing. Beginning in January 2016, the bureau provided training to the Department of Children's Services, the Department of Human Services, and Tennessee State University. Also, from July 2008 to June 2013, TBI provided pre-employment psychological testing for the Department of Commerce and Insurance's investigative agents, forensic scientists, and uniformed officers. The contract payments from the Departments of Children's Services, Human Services, and Commerce and Insurance are reported as interdepartmental transfers from the agencies to TBI in the Edison accounting system.



### Current Services and Other Revenues

TBI received revenues from various fees and fines, including those revenues deemed "current services revenues,"<sup>w</sup> which are any fees the bureau collects that do not originate from federal agencies or other Tennessee state agencies. The following table summarizes the types of other revenue sources, amounts received, and the statutory authority.

<sup>w</sup> The review of current services revenues is found in the Budget section of the report on page 25.

**Table 09**  
**Other Revenues**

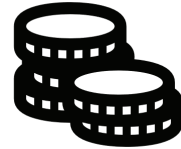
<b>Funding Source</b>	<b>Amount</b>	<b><i>Tennessee Code Annotated</i></b>
Background check for foster parents through the Department of Children's Services	Up to \$70	Section 37-2-415(a)(8)
Drug fee upon conviction	\$20	Section 38-6-103(d)(1)(A)(i)
Driving under the influence fee upon conviction	\$17.50	Section 38-6-103(d)(1)(A)(ii)
Certification of criminal history upon conviction	\$12 of \$32.65 fee <sup>X</sup>	Section 38-6-103(d)(1)(A)(iii)
Forfeiture of cash bond related to traffic ticket upon conviction	\$13.75	Section 38-6-103(d)(1)(A)(iv)
Background checks for outside entities	\$12 of \$30.15 fee <sup>Y</sup>	Section 38-6-109(d)
Diversion application fee	\$100	Section 38-6-118(e) for creation of fee; Section 40-32-101(d)(2)(B) for fund
Proceeds of forfeited property	Proceeds	Section 39-11-713(b)
Proceeds of forfeited property in connection with identity theft	10% of proceeds after restitution made to victim	Section 39-14-150(h)
Tennessee Instant Check	Up to \$10	Section 39-17-1316(e)
Handgun carry permit application fee	\$15 of \$100 fee	Section 39-17-1351(p)
Proceeds of forfeited property in connection with drug crimes	Proceeds	Section 39-17-420(a)(3), (b)
Drug testing fee	\$250	Section 39-17-420(h)
Expungement fee	\$350	Section 40-32-101(d) for pretrial diversion; Section 40-35-313(d)(2) for judicial diversion
Petition for expungement	\$50 of \$350 fee	Section 40-32-101(g)(10)
Proceeds of forfeited vehicles	Proceeds	Section 40-33-110(c)
Sex offender registration	\$50 of up to \$150 fee given to local law enforcement	Section 40-39-204
Proceeds of forfeited property	Proceeds	Section 53-11-451
Proceeds of forfeited property	Proceeds	Section 53-11-452(g)
Blood alcohol or drug concentration test fee	\$250	Section 55-10-413(f)

<sup>X</sup> The applicable *Tennessee Code Annotated* mandates that the amount charged by TBI will be "an amount fixed by the federal bureau of investigation."

<sup>Y</sup> The applicable *Tennessee Code Annotated* mandates that the amount charged for such background checks shall have a "fee schedule established by the federal bureau of investigation."

**1. TBI collected federal revenue within industry standards.**

TBI's collection of federal awards appeared consistent with other states' investigative agencies.<sup>z</sup> In one instance in December 2016, TBI lost the opportunity to use federal funds from the U.S. Department of Justice. These federal funds, which are administered by F&A's Office of Criminal Justice Programs (OCJP), were designated for the procurement of an information system upgrade. TBI was unable to comply with the federal deadline for the drawdown of federal funds due, in part, to communication problems and procurement delays. Communication problems between TBI, OCJP, and F&A's Division of Strategic Technology Solutions (STS) inhibited the timely execution of the procurement. Additionally, STS, which is responsible for the maintenance and replacement of the state's information systems, was unable to procure the asset expeditiously because of staffing limitations. TBI, OCJP, and STS informed the Comptroller's Office that these communication and procurement delays have now been remedied.

**2. With minor exceptions, TBI administered its federal grants in compliance with rules, regulations, and best practice guidance.**

Subrecipient monitoring documentation showed that F&A's Office of Criminal Justice Programs noted deficiencies in TBI's federal reporting. These deficiencies occurred between the separation of TBI's former Grants Program Manager in December 2016 and the hiring of the current Grants Program Manager in March 2017. The bureau remedied these deficiencies prior to the completion of this review. Additionally, according to the OCJP Director, TBI has frequently requested grant modifications, including "last minute" requests to modify grants prior to the federal deadline. Based on our discussions with OCJP Program Managers and our review of grant documentation, TBI's grant modifications were in keeping with federal guidance.

**3. TBI should continue to monitor and strengthen its contract payment collection activities.**

Prior to fiscal year 2016, TBI did not ensure it collected interdepartmental revenue from contracts with other state agencies. These contracts included psychological testing provided to the Department of Commerce and Insurance through June 30, 2013, as well as current training contracts with the Department of Human Services and the Department of Children's Services. TBI maintained supporting documentation for the services it provided and invoiced the agencies; however, the bureau did not properly reconcile the contracts with the resulting interagency transfers and therefore could not be certain it collected the interdepartmental revenue it was due. Beginning in fiscal year 2016, the TBI Accounting Manager began reconciling payments to contracts. **Table 10** displays the amounts of these interagency contracts.

**Table 10**  
**Interagency Contracts**

State Department	Contract Begin Date	Contract End Date	Contract Amount
Department of Commerce and Insurance	7/1/2008	6/30/2013	\$ 30,000
Department of Human Services	1/20/2016	1/19/2021	96,000
Department of Children's Services	1/1/2016	12/31/2020	500,000
Department of Human Services	1/9/2017	2/2/2017	27,800

**4. TBI does not currently charge local government agencies annual fees or fees for investigatory or forensic services.**

In accordance with state statute, TBI provides investigation and forensic services at the request of local law enforcement agencies and local district attorneys. The bureau does not, however, actively collect fees from local government law enforcement agencies or municipal governments for the investigatory services it provides.

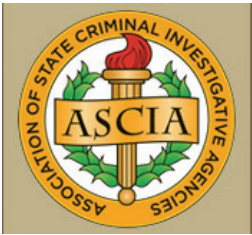
---

<sup>z</sup> To make this determination, the Comptroller's Office reviewed federal grant awards and programs, as well as subrecipient monitoring documentation for review engagements of TBI activities; interviewed key personnel from TBI, F&A's Office of Criminal Justice Programs, and the Tennessee Highway Safety Office; and researched potential additional federal awards and programs.



As discussed in the Legislative History section of this report, TBI was initially created in 1951 to provide investigatory services for those agencies that did not otherwise have access to such resources. Due to the costs of forensic services and the limitation of specialized personnel, most local law enforcement agencies could not be expected to cover the full cost of TBI's investigatory services.

In response to the financial crisis of 2008 and 2009, TBI—along with other state agencies—faced significant budget cuts. These budget cuts were so severe that they not only affected discretionary training and travel but also general operations. A backlog of evidence testing resulted. Local law enforcement agencies were pressuring TBI for testing results, but the bureau did not have the personnel available to process the evidence.



Around this time, the TBI Director attended an Association of State Criminal Investigative Agencies conference and learned that some agencies were charging fees to local law enforcement agencies. TBI then proposed collecting annual, size-based fees from the state's local law enforcement agencies to fund its forensics services. These fees would have cost small agencies \$2,000 and large agencies \$6,000 per year to have access to the bureau's forensics services. TBI did not want to charge local law enforcement agencies because they believed that the General

Assembly should provide the funds; however, the bureau was in such financial turmoil that this move might have been necessary to sustain operations and avoid layoffs.

When TBI presented the fee proposal to the Governor and F&A Commissioner in the 2009 budget hearing and to local sheriffs and chiefs of police in a separate meeting, the local governments pushed back, citing their own financial issues. The proposal to charge fees to local governments was ultimately not pursued through legislation. In an effort to supplement TBI's revenues, however, local governments agreed to remit a portion of forfeited municipal citation bond proceeds to the bureau.<sup>AA</sup> This practice resulted in approximately \$1.7 million in annual revenues from fiscal year 2013 to 2017.

In further discussions, the Comptroller's Office determined that the standard process for state-level entities providing services to local government entities is to procure funding from the legislature and not charge the local governments. Additionally, TBI's revenues are supplemented at the local level by passing costs on to the offenders, who are responsible for paying Drug Offender Registry, Sex Offender Registry, and alcohol and drug testing fees.

While charging fees to local governments on a service basis would supplement TBI's revenues, this move might create unintended negative repercussions. For example, the fee structure would have a disparate impact on smaller agencies and could dissuade them from seeking TBI's services, leaving some criminal cases unsolved. Additionally, imposing an annual fee at the local level without implementing a corresponding funding mechanism could impair local law enforcement agencies' budgets overall.

To ensure TBI can maximize all available revenue sources, management should develop a revenue collection policy that specifically includes charges for services when it is appropriate to do so. Management should approve and document the basis for any service charges.



---

<sup>AA</sup> Pursuant to Section 38-6-103(d) et seq., *Tennessee Code Annotated*, local clerks shall remit \$13.75 "upon the forfeiture of a cash bond or other surety entered as a result of a municipal traffic citation, whether considered a fine, a bond, or a tax." Such proceeds are remitted "to the state treasury to be used by the Tennessee bureau of investigation as appropriated by the general assembly."

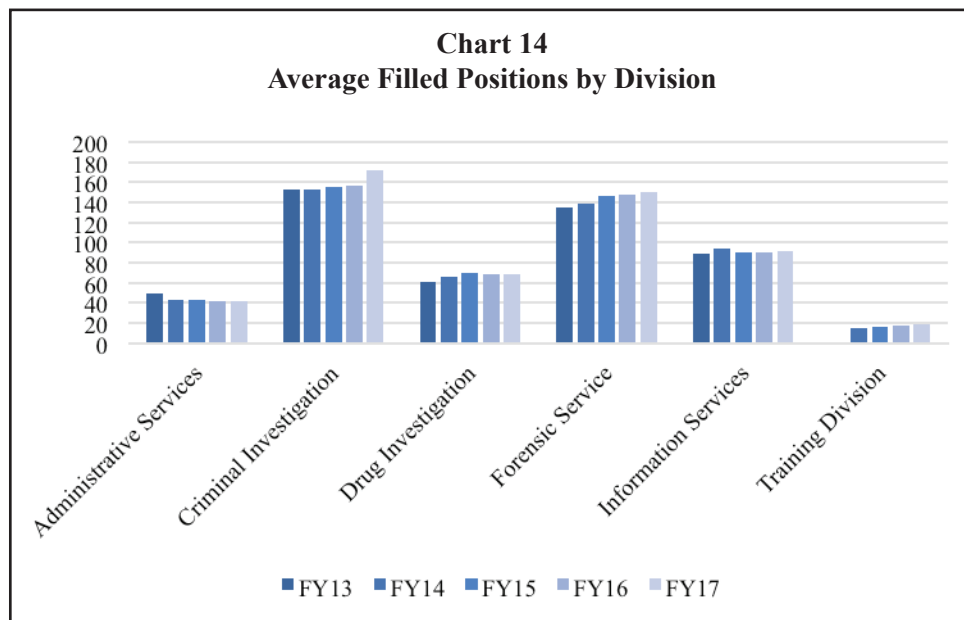
# Staffing



### General Staffing Background

TBI consists of six different divisions: Administrative Services, Criminal Investigation, Drug Investigation, Forensic Service, Information Systems, and Training.<sup>BB</sup> Each division has an Assistant Director who reports to the Deputy Director. The Deputy Director reports directly to the Director.

**Chart 14** displays the average number of filled positions by division for the period of review, fiscal years 2013 through 2017.<sup>CC</sup>



### Commission on Accreditation for Law Enforcement Agencies Report

The Commission on Accreditation for Law Enforcement Agencies (CALEA) Accreditation provides a series of self-assessments and external reviews to ensure compliance with its standards; compliance with current law enforcement best practices; and identification of future issues that may affect an organization's law enforcement activities, including staffing.



<sup>BB</sup> TBI added a seventh division, Criminal Justice Information Services, in July 2017. This division is overseen by an Assistant Director, and its staff consists of former Information Systems employees. The new division compiles criminal statistics reports and provides support to local law enforcement agencies. Since the Criminal Justice Information Services Division was formed outside of the scope of the staffing review, it was not included in these analyses.

<sup>CC</sup> During fiscal year 2013, the Training Division was part of the Administrative Services Division.

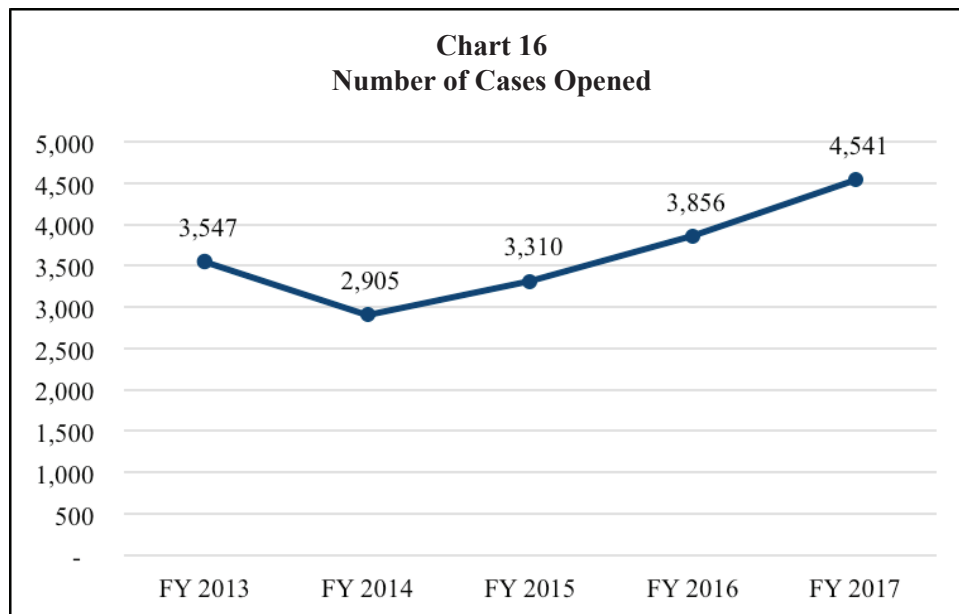
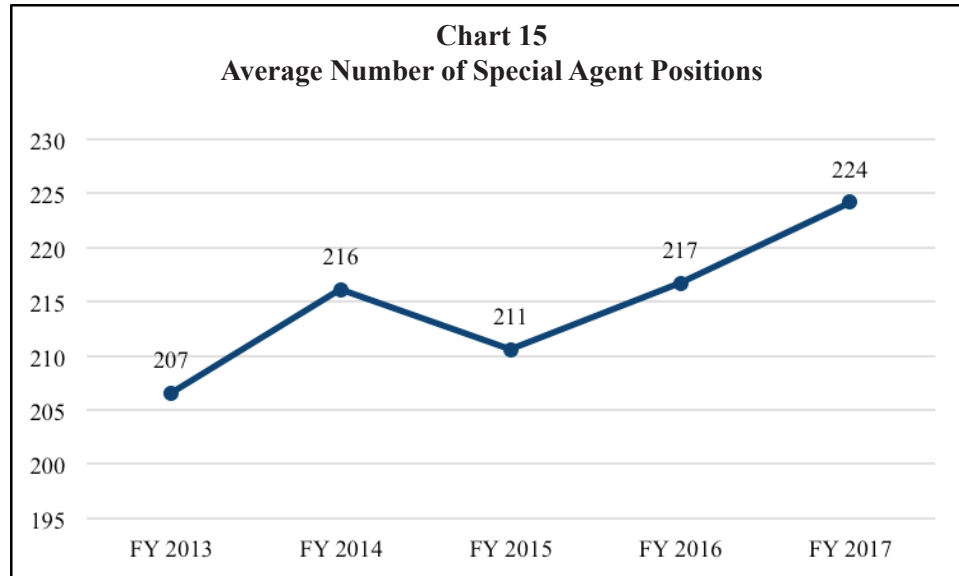
The most recent CALEA Assessment Report, dated 2015, noted the following:

**Exhibit 4**  
**Excerpt from 2015 CALEA Assessment Report**

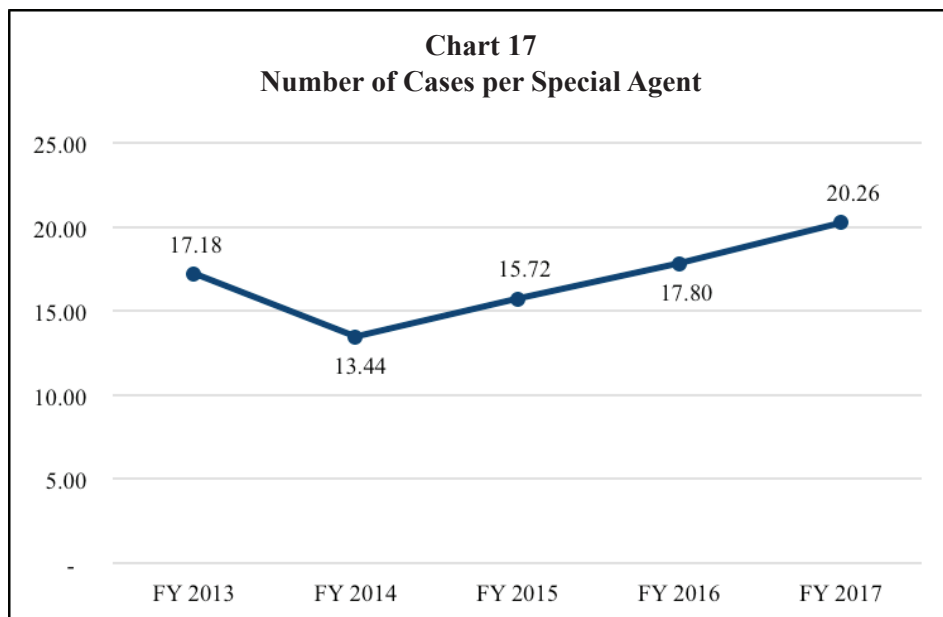
Many of the issues facing the TBI are the direct result of the loss of funding and the lack of growth in personnel during the “great recession” and the slow recovery with the expanding economy. TBI navigated through the difficult fiscal years by reducing training and purchases, along with vacancies that remained unfilled. State legislation affecting law enforcement on topics such as use of force, body cameras, privacy, and human trafficking are likely to provide even greater challenges. The national focus on police involved shootings has increased the frequency of requests for TBI to investigate use of force incidents state-wide. Some state lawmakers are calling for legislation that will mandate that TBI investigate all police involved deadly force encounters and perhaps all in-custody deaths for county, municipal and state agencies. TBI already performs these types of investigations at the request of the District Attorneys throughout the state, though the largest municipal agencies still investigate most of their own incidents. If additional investigators are not approved to coincide with the legislation, TBI could face challenges responding to multiple incidents. The same legislation could require TBI to seek an out-of-state agency to investigate a shooting involving its agents. TBI is also monitoring legislation that may mandate the use of body cameras by law enforcement. Though the agency's agents are not first responders, the scope of the legislation could include TBI, thus creating new challenges for policy, training and storage. Privacy issues are another topic being considered by the state legislature. TBI monitors legislation affecting law enforcement's use of drones, sharing of information between state and federal agencies, and information gleaned from cell phones. TBI recently ramped up its investigative efforts addressing human trafficking following state's approval of four additional agents to focus on the issue. TBI will house the Human Trafficking Task force and will lead the state's efforts.

**1. Since July 2012, TBI's staffing levels have risen at a slower pace than its caseload numbers.**

The Comptroller's Office determined the average number of special agent positions as well as the number of cases opened during fiscal years 2013 through 2017 (see **Chart 15** and **Chart 16**).

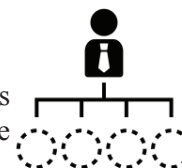


Although TBI experienced growth in special agent staffing during that period, the increase was not proportional to the increase in the number of cases the bureau opened (see **Chart 17**).



**2. TBI filled vacant positions within a reasonable time frame.**

TBI filled 50% of vacant positions within 6 months (see **Table 11**). For many vacancies longer than 12 months, the positions were reclassified or were special agent positions; the bureau only hires for these positions approximately every 18 month.



**Table 11**  
**Vacant Positions by Cumulative Vacancy Period<sup>DD</sup>**

Vacancy Period	Number of Positions <sup>EE</sup>
1-2 months	62
3-6 months	86
7-12 months	67
13-24 months	29
25+ months	14

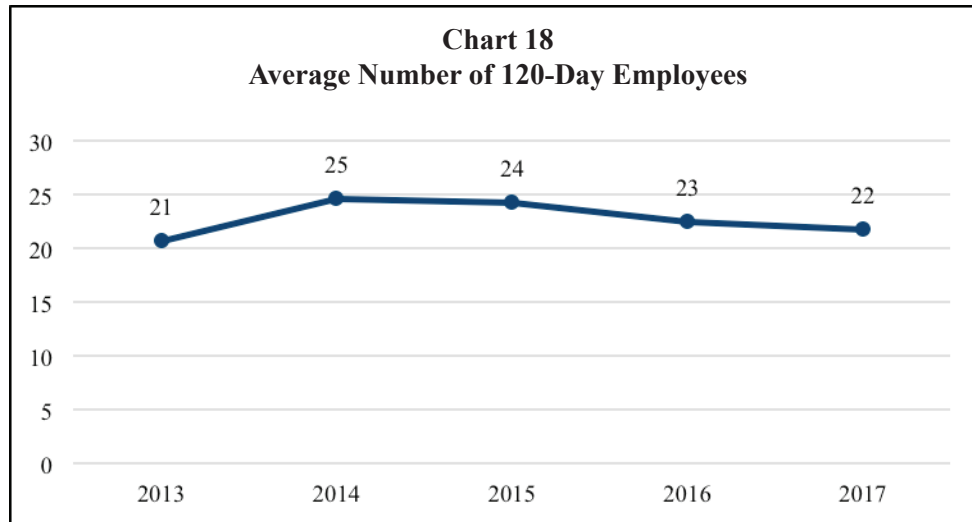
**3. With the assistance of independent law enforcement agencies, TBI should conduct studies regarding its use of temporary staff and the overtime of existing staff to determine whether increased permanent positions would benefit TBI in the long term.**



TBI relies on 120-day staff and other temporary staff in both fiscal and operational areas. 120-day employees are retired employees who return to the bureau to work on a part-time basis. These employees already possess the skills required for their position and are familiar with TBI. According to management, TBI utilizes these hiring practices because of the extensive training and time it takes for a special agent or forensic scientist to be able to work independently. The bureau employs new special agents, including criminal and drug investigators and forensic scientists, under a 2-year probationary period.

<sup>DD</sup> The length of time before vacant positions were filled was calculated based on staffing reports for fiscal years 2013 through 2017.

<sup>EE</sup> A position may have become vacant multiple times during the review period. This column includes the total number of months a position remained vacant.



The state contracts with a staffing agency to fill short-term needs. TBI mainly uses these temporary employees to assist with seasonal increases in demand for the Tennessee Instant Check System, which provides instant background checks for prospective gun buyers. The bureau employs temporary fiscal staff as well.<sup>FF</sup> TBI had a total of 19 temporary employees who reported time for the week ending September 30, 2017.

In addition to using 120-day and other temporary staff, TBI sometimes requires permanent staff to work overtime. For example, due to the unpredictable nature of law enforcement investigations, special agents may work extra hours. **Table 12** shows the monetary amounts TBI spent on overtime during the period of review, fiscal years 2013 through 2017.



**Table 12**  
**Overtime Summary**

Fiscal Year	Amount Spent on Overtime
2013	\$ 1,134,700
2014	1,144,200
2015	942,000
2016	1,098,100
2017	1,352,800
<b>Total:</b>	<b>\$ 5,671,800</b>

Based upon discussions with management, TBI has not conducted a study to determine if an increase in permanent positions would be more efficient than using 120-day and other temporary staff or having current permanent staff work overtime. Additionally, the TBI Director expressed concern that there is not a bureau special agent assigned to each county in the state. The Comptroller's Office verified the accuracy of the Director's statement and found that some agents are assigned to multiple counties.

<sup>FF</sup> Fiscal staffing is examined in more detail later in this sub-section.





The U.S. Government Accountability Office's Standards for Internal Control in the Federal Government (Green Book) sets internal control standards and is considered best practice for non-federal entities. Green Book Principle 3.05, "Establish Structure, Responsibility, and Authority," states, "Management periodically evaluates the organizational structure so that it meets the entity's objectives and has adapted to any new objectives for the entity, such as a new law or regulation."

### Fiscal Staffing Background

Housed within the Administrative Services Division, the Fiscal Services Unit provides support to TBI's various divisions. The unit helps the bureau by

- preparing the annual budget;
- monitoring expenditures and revenue collections;
- processing accounts receivable and payable transactions;
- managing vehicles and transportation equipment;
- maintaining all federal and interdepartmental grants;
- reviewing the fiscal effect of proposed legislation;
- serving as a liaison to the General Assembly and other state and federal accounting units; and
- conducting an annual inventory on state-tagged equipment.



#### 4. By using two temporary staff, the Fiscal Services Unit had sufficient resources to fulfill its responsibilities.

With regard to permanent Fiscal Services Unit positions, fiscal years 2013 through 2017 staffing reports demonstrated that the number remained constant at 10 positions. During the review period of fiscal years 2013 through 2017, though, the unit relied on temporary employees.



For the past five years, TBI has employed one temporary worker who was responsible for keying in direct payments and posting receivable payments from billable accounts for revenue sources, such as the Tennessee Instant Check System, into QuickBooks. Additionally, the bureau occasionally employed a second temporary worker whose responsibilities included opening and distributing mail, filing documents, and making payments.

According to TBI's Fiscal Director, converting the two temporary positions to permanent, full-time positions would be a valuable addition to the Fiscal Services Unit. The Fiscal Director stated that he had made management aware of this staffing need, but he added that the TBI Director must balance the needs of the entire agency with available funds. Based on the review of fiscal activities,<sup>GG</sup> the Comptroller's Office believes that should TBI increase its permanent fiscal staff, it would receive the greatest benefit by dedicating a significant portion of one employee's time to the budget process and communicating with F&A's Division of Accounts and Division of Budget.

The Comptroller's Office did not identify any potential problems with the number and length of vacancies for fiscal years 2013 through 2017. **Table 13** displays a summary of the vacant Fiscal Services Unit positions during the review period.

<sup>GG</sup> The review of fiscal activities is found in the Budget section of the report on page 24.

**Table 13**  
**Fiscal Services Unit Vacancy Summary**

Position	Vacant Period
Accounting Technician II / Grants Manager <sup>HH</sup>	July 2012 – November 2012
Accounting Technician 1	November 2012 – January 2013
Grants Manager	January 2017 – February 2017

Based on the examination of the personnel files of current Fiscal Services employees, employees' qualifications appeared reasonable.

### Internal Audit Staffing Background

TBI first established an Internal Audit Director position in 1997 and has never employed additional internal audit staff with agency-wide responsibilities.<sup>II</sup> The current Internal Audit Director assumed her position in 2003.

The Internal Audit Director assists TBI in fulfilling its vision, mission, strategic goals, and objectives while providing independent, objective assurance and consulting services. The internal audit function helps the bureau:

- identify and manage risks;
- efficiently use and adequately safeguard resources;
- perform operations in accordance with sufficient internal controls and high ethical standards; and
- follow applicable statutory and TBI requirements.

To fulfill her duties, the Internal Audit Director develops an annual audit plan outlining her core objectives for each year and submits this plan to the TBI Director and, beginning in fiscal year 2018, to the Executive Internal Auditor.<sup>JJ</sup>

### 5. Increasing the number of internal audit staff could add value to TBI.

Analysis of annual internal audit plans for fiscal years 2013 through 2018 revealed that the Internal Audit Director fulfilled her basic responsibilities to TBI. She assessed the highest risks in the Investigation and Forensics areas and performed work relating to these high-risk areas, which appears reasonable. Since the Internal Audit Director has no other staff, she limited her audit objectives to those highest assessed risks and was therefore unable to focus on detecting and preventing other operational inefficiencies and ineffectiveness, including in administrative operations. See **Exhibit 5** for examples.



<sup>HH</sup> The Accounting Technician II position was reclassified to a Grants Manager position in 2012.

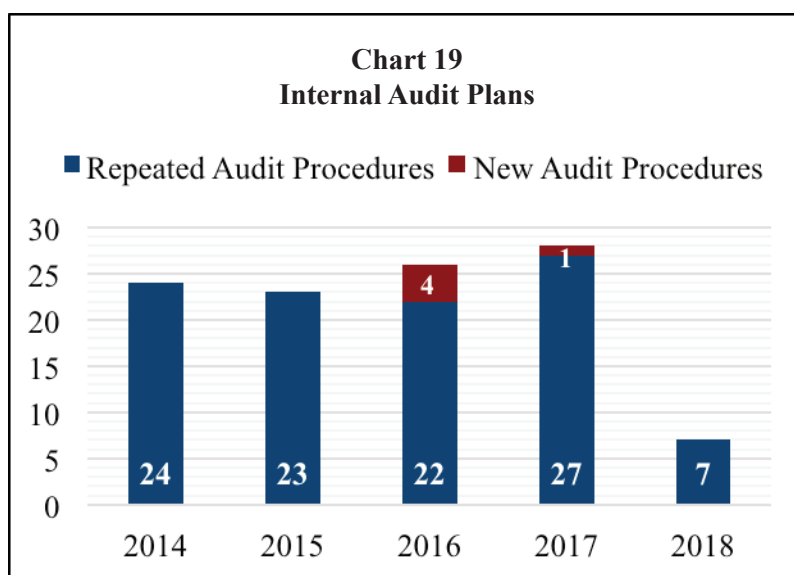
<sup>II</sup> The Forensics Division employs a Quality Assurance Officer, who provides internal audit services solely for that division and its laboratory functions.

<sup>JJ</sup> Pursuant to Section 4-4-124, *Tennessee Code Annotated*, the Executive Internal Auditor is responsible for developing internal audit standards and reviewing and approving audit plans for executive-branch agencies. TBI, though not an executive-branch agency, voluntarily agreed to the oversight provided by the Executive Internal Auditor.

**Exhibit 5**  
**Excerpt from Fiscal Year 2016 Internal Audit Plan**

- Conduct walk through and complete inventories of each of the seven evidence vaults on a bi-annual basis for accuracy and compliance with bureau policy;
- Research and respond to internal audit inquiries from employees and senior staff management;
- Review documentation of security access for accuracy and compliance with Bureau policy.

Furthermore, the Internal Audit Director repeated the same procedures from one fiscal year to the next. For fiscal years 2014 through 2018 specifically, she carried over 103 of the 108 objectives from the prior year's internal audit plan (95 percent), as summarized in **Chart 19**.<sup>KK</sup>



The internal audit activity must evaluate and contribute to the improvement of the organization's governance, risk management, and control processes using a systematic, disciplined, and risk based approach. Internal audit credibility and value are enhanced when auditors are proactive and their evaluations offer new insights and consider future impact.



Although the size of TBI's internal audit unit is consistent with other agencies of similar staff size and budget (see **Table 14**), given the unique risks of law enforcement, the bureau could benefit from increased internal audit resources.

<sup>KK</sup> Beginning in fiscal year 2018, the Internal Audit Director used the Executive Internal Auditor's established format for presenting objectives. As a direct result of the new format, many of the Internal Audit Director's objectives were combined into larger, more encompassing objectives, hence the decrease in the overall number.

**Table 14**  
**Comparison of State Agencies' Internal Audit Staff**

Department	Internal Audit Employees	Total Employees for Fiscal Year 2016	Actual Agency Expenditures for Fiscal Year 2016
Division of TennCare	14	781	\$ 10,978,127,000
Department of Corrections	12	6,458	892,207,200
Department of Health	11	3,188	562,749,000
Department of Transportation	8	4,635	1,654,378,800
Department of Safety and Homeland Security	8	1,722	207,761,400
Department of Human Services	7	4,515	2,448,143,800
Department of Labor and Workforce Development	6	1,603	169,598,900
Department of Environment and Conservation	6	2,772	364,834,900
Department of Intellectual and Developmental Disabilities	5	1,994	176,890,000
Department of Children's Services	5	4,251	765,805,200
Department of Education	4	1,415	5,666,698,900
Department of Commerce and Insurance	4	911	188,866,700
Department of Revenue	3	999	107,319,600
Department of General Services	3	393	103,407,100
Department of Finance and Administration	3	1,104	250,631,000
Department of Economic and Community Development	2	104	192,951,500
Tennessee Wildlife Resources Agency	1	723	105,849,700
Tennessee Rehabilitative Initiative in Correction	1	167	42,960,300
<b>TBI</b>	<b>1</b>	<b>531</b>	<b>75,452,300</b>
Department of Financial Institutions	1	163	16,961,900
Department of Veterans Services	-	97	6,871,700
Department of Tourist Development	-	181	24,496,900
Department of Military	-	392	121,207,400
Department of Mental Health and Substance Abuse Services	-	1,870	311,506,700
Department of Human Resources	-	154	11,151,300
Department of Agriculture	-	778	90,138,000
Attorney General and Reporter	-	323	35,065,700
<b>Total:</b>	<b>105</b>	<b>42,224</b>	<b>\$ 25,572,032,900</b>

Source: The June 2016 F&A review of internal audit resources by executive-branch agency and the budget for the State of Tennessee for fiscal year 2018.

# Analysis of Independence



### TBI's Independence

The Tennessee Bureau of Investigation's unique role in state government requires a balance between independence and accountability. TBI's duties require the independence to investigate any entity or official, whether state or local, without a conflict of interest or political pressure that could compromise the integrity of its investigations. Conversely, checks and balances must keep the bureau accountable and provide opportunities for corrective action in the case of mismanagement.

When separating TBI from the Department of Safety in 1980, legislators repeatedly used the term "independent agency," but what constitutes an "independent agency" was never explicitly defined in surviving discussion or legislation. In researching TBI's independence, the Comptroller's Office found that:

- **TBI is a structurally unique, operationally independent cabinet-level agency that does not clearly belong to a single branch of government.** TBI is a cabinet-level agency but, unlike other state departments, does not clearly answer to the executive, legislative, or judicial branches. Similarly, the TBI Director is the only cabinet-level official that is neither an executive commissioner nor a constitutional officer that directly answers to the legislative or judicial branches. Furthermore, the TBI Director's unique appointment process and limited removal process – created in the aftermath of corruption scandals surrounding a former Governor – gives the bureau a considerable measure of independence regarding its investigations and operations.
- **TBI's lack of fiscal and administrative flexibility may be inconsistent with its establishment as an independent agency.** Legislative and judicial agencies are granted statutory flexibilities regarding funding, procurement, and personnel. Although TBI is not specifically exempted in these laws and has been functioning like an executive agency in these areas, its structural independence from the executive branch may merit the consideration of granting TBI these statutory exemptions.
- **Though operationally independent, TBI is accountable to nearly all of the same forces as other state departments.** While TBI does not directly report to a single branch of government, it is held accountable by the state legislature, closely related judicial agencies, regular audits and reviews, the public, and the press. Thus, while TBI is independent, it is not immune to regulation or corrective action in the case of mismanagement.

### **TBI is a structurally unique, operationally independent cabinet-level agency that does not clearly belong to a single branch of government.**

When separating TBI from the Department of Safety and establishing the bureau as a separate department in 1980, legislators often spoke of making TBI an "independent agency." Despite hours of consideration, however, "independent" was never explicitly defined, either in law or discussion.

Regarding its accountability and oversight, TBI's annual report states, "The TBI is accountable to the District Attorneys General and to the Judiciary for its performance of services and to the Executive and Legislative branches for support functions."<sup>68</sup> Such accountability to multiple branches of government is unusual, as all other cabinet-level state departments fall under one of the three branches established by the state constitution: the legislative branch, the executive branch, and the judicial branch.<sup>LL</sup>

Across the three branches, Tennessee's constitution establishes five agency heads or so-called "constitutional officers." Within the legislative branch, the Secretary of State, Treasurer, and Comptroller of the Treasury are elected by the legislature; within the judicial branch, the Attorney General and Reporter is chosen by

---

<sup>LL</sup>Various other state entities, such as boards and commissions, may not answer to a single branch. The Tennessee Advisory Commission on Intergovernmental Relations (TACIR), for example, is overseen by 25 appointed and ex officio board members; appointed board members are appointed by the Governor and Speakers of the Senate and House. The Comptroller's Office does not consider TACIR a cabinet-level agency. *Tennessee Code Annotated* 4-10-103.

the Tennessee Supreme Court; and within the executive branch, the Adjutant General is appointed by the Governor.<sup>69</sup> While created in state law rather than the constitution, the remaining state departments fall under the executive branch, and their agency heads are appointed by, and report directly to, the Governor.

TBI, established in a different section of code than nearly all other cabinet-level state departments and overseen by a director without a clearly delineated oversight body, is a unique and “structurally” or “operationally” independent state agency.

**The TBI Director is the only cabinet-level agency head who is neither a commissioner nor a constitutional officer.**

Title 38 of *Tennessee Code Annotated* deals with the prevention and detection of crime, and Chapter 6, Part 1, establishes the Tennessee Bureau of Investigation: “There is created the Tennessee bureau of investigation, which shall be a separate department of state government.” A later item creates the position of TBI Director — “a director shall be appointed to administer the department” — and sets the Director’s salary as equal to or greater than the Commissioner of Safety’s salary.<sup>70</sup>

The language establishing TBI as a “separate department” may have been to emphasize its separation in 1980 from its previous form as the Tennessee Bureau of Criminal Identification, an office within the Department of Safety. Several other proposals would have placed TBI within the Attorney General’s Office, thereby moving the bureau to the judicial branch. Ultimately, however, TBI was restructured as its own department, and, based on its statutory authorization, the Comptroller’s Office considers TBI a cabinet-level agency due to three main factors:

- Although “department” is not defined in TBI’s section of law or consistently throughout the code, TBI’s authorizing statute is consistent with the language creating all other cabinet-level state departments, which typically reads in the style of, “There is hereby created the department of . . .” Such language suggests that TBI is a fully-fledged state department, rather than a commission or other agency (for example, the Tennessee Wildlife Resources Agency or the Tennessee Housing Development Agency).
- The TBI Director’s salary is set in law as equivalent to the Commissioner of Safety’s, implying that the TBI Director is the same class of official and has the same level of authority as an executive branch commissioner, who is in turn equivalent to a constitutional officer.<sup>MM</sup>

### An Independent TBI

TBI’s predecessor, the Tennessee Bureau of Criminal Identification, was an office housed within the Department of Safety. In 1980, following the scandals surrounding Governor Ray Blanton’s administration, TBI was separated from the Department of Safety and established as an independent agency.

During debate, several legislators spoke to the need for creating TBI as its own department. One sponsor said his bill was intended to prevent TBI from becoming a “political football.” Another member supported removing TBI from potential “pressure” from the Governor. Ultimately, a unique appointment process and a limited removal process for the TBI Director were among the safeguards written into law for the restructured TBI.

For more information regarding TBI’s creation, please see the Legislative History section.

<sup>MM</sup> TCA 8-23-101 establishes Class 1 and Class 2 state officials. Class 1 officials include the three legislative constitutional officers – Secretary of State, Comptroller of the Treasury, and Treasurer – and the Commissioners of Education, Finance and Administration, and Transportation. Class 2 officials, which have a lower base salary, include the Adjutant General and all other commissioners (including the Commissioner of Safety). The Commissioners of Health, Intellectual and Developmental Disabilities, and Mental Health and Substance Abuse Services are not specifically classified as Class 1 or Class 2, and the Commissioner of Economic and Community Development is listed separately. The Attorney General’s salary is set equal to an associate Supreme Court justice’s in TCA 8-6-104.



- The TBI Director is appointed by the Governor, the highest executive branch authority, from a list of candidates selected by an independent nominating commission. Furthermore, there is no “intermediate” oversight body, such as a board or commission, to govern TBI’s day-to-day operations.<sup>71</sup> See the related box on page 80.

If TBI is a cabinet-level agency, then the TBI Director is a cabinet-level official. The TBI Director is unique in state government, however, as the position is the only agency head at this level that is neither an executive commissioner nor a constitutional officer. As a result, sections of state law that apply to broad categories of state officials or agencies do not extend to TBI. For example, TCA 8-50-501 requires high-level state officials to disclose potential conflicts of interest; the responses are posted publicly on the Tennessee Ethics Commission’s website. Among other officials, the law applies to “each officer of the governor’s cabinet,” as well as the remaining non-executive constitutional officers, who are explicitly named (Secretary of State, Treasurer, Comptroller of the Treasury, and Attorney General).

Based on current law, the TBI Director is not subject to these requirements. Because the Director is not a commissioner, the position is not automatically included in the Governor’s cabinet; additionally, the TBI Director is not specifically listed in the law, as are the constitutional officers. As a result, the TBI Director appears to be the only official at this level of government not required to disclose conflicts of interest. In practice, the TBI Director has no forms on record on the commission’s website.<sup>72</sup> The General Assembly may wish to add the TBI Director to the list of high-level state officials required to disclose potential conflicts of interest.

**Although TBI’s setup in state law differs from nearly all other state departments from an organizational standpoint — which may have been an oversight — its position in statute may protect the bureau’s independence.**

Almost all cabinet-level agencies are created and detailed in Title 4, Chapter 3, the section of law covering the “creation, organization and powers of administrative departments and divisions.”<sup>NN</sup> TBI, by contrast, is established in Title 38, Chapter 6.

Not being included in the central location for nearly all state departments suggests that TBI may be a “one-off.” In addition to establishing the various departments, Title 4 outlines some broad powers relating to all cabinet-level agencies. For example, under TCA 4-4-101, all executive commissioners of the departments in Title 4, Chapter 3 have the authority to restructure their departments by consolidating or creating divisions with the approval of the Governor; this power is construed to apply generally to the Secretary of State, Treasurer, and Attorney General, and is explicitly granted to the Comptroller of the Treasury.<sup>73</sup>

TCA 38-6-101 gives the TBI Director “full control” over the three divisions created in statute (the Criminal Investigation, Forensic Services, and Drug Investigation divisions), but it is unclear how much authority the Director has to create new divisions or expand operations beyond those set by statute, and which governmental branch, if any, must approve such changes. In other words, it is not clear how much potential for mission creep rests with the TBI Director, should he or she choose to exercise it.

---

<sup>NN</sup>The Department of Children’s Services is mentioned in Title 4, Chapter 3, but the bulk of its duties are outlined in the statutes dealing with juveniles in Title 37. The Department of Military is created under the military statutes in Title 58 and is not mentioned in Title 4.

### What makes an agency cabinet-level?

In a cabinet-level agency, the focus is on the **cabinet**. TCA 4-3-122 specifies that the “commissioners of the administrative departments” make up the Governor’s cabinet; if invited, the staff directors of the various divisions of the Governor’s Office and the Secretary of State, Treasurer, and Comptroller of the Treasury may also be part of the cabinet.

All cabinet members have something in common: they are elected or appointed by the highest level of one branch of government. Commissioners and staff directors, for example, are appointed by the Governor, and the Secretary of State, Treasurer, and Comptroller are elected by the legislature.

Thus, when evaluating whether an agency is cabinet-level, the Comptroller’s Office considered three questions. With regard to TBI:

1. **Is the agency head one of the cabinet members specifically listed in state law?** No, the TBI Director is not included in TCA 4-3-122.
2. **If not, is the agency head’s appointing authority the highest level of a branch of government – that is, the Governor, the legislature, or the Supreme Court?** Yes, the Governor appoints the TBI Director from a list of three candidates provided by an independent nominating commission.
3. **If so, does the agency head answer to an oversight body, such as a board or commission?** No, there is no board or commission with oversight of TBI.

Question 2 disqualified several entities, such as the Tennessee Wildlife Resources Agency (TWRA). Although TWRA has broad authority, nearly 700 staff, and an Executive Director, the Executive Director is appointed by the Fish and Wildlife Commission, which is in turn appointed by the Governor and House and Senate Speakers. Because the TWRA Executive Director is not directly appointed by the highest level of government – the Governor, legislature, or Supreme Court – the position was not deemed cabinet-level.

Similarly, question 3 disqualified other entities. The Tennessee Higher Education Commission (THEC), for example, has an Executive Director that serves at the pleasure of the Governor. While the Executive Director thereby meets criterion 2, THEC’s operations are overseen by the commission itself, with 10 voting members appointed by the Governor and the Speakers. As a result, the Executive Director of THEC was not considered a cabinet-level position.

### Two cabinet members fall outside the statute establishing the Governor’s cabinet

The Adjutant General, the designated agency head of the Department of Military, is a constitutional officer appointed by the Governor. Although the Adjutant General is currently a cabinet member, the Department of Military is not created in Title 4, Part 3, and so may not technically be considered one of the “administrative departments” referenced in TCA 4-3-122, the statute regarding the cabinet.

Additionally, the Director of the Bureau of TennCare is currently a cabinet member. State law places the state Medicaid program within the Department of Health. In 1995, Executive Order 1 transferred TennCare from the Department of Health to F&A, and transferred oversight of contracted managed care organizations to the Department of Commerce and Insurance. In 1997, Executive Order 11 transferred TennCare back to the Department of Health, and in 1999, Executive Order 23 transferred TennCare for a second time to F&A, where it currently remains. As such, technically, TennCare is a division within F&A, and although the TennCare Director is a member of the Governor’s cabinet, the position is a deputy commissioner over a departmental division rather than a commissioner of a department.

Source: Tennessee Code Annotated 4-3-122; Tennessee Code Annotated 38-6-101(b); Tennessee Code Annotated 70-1-201 et seq.; Tennessee Code Annotated 70-1-301 et seq.; Tennessee Code Annotated 49-7-201 et seq.; Tennessee State Constitution, Article VII, Section 2; Tennessee Office of the Governor, “Cabinet,” <https://www.tn.gov/governor/topic/cabinet> (accessed Nov. 21, 2017); Tennessee Code Annotated 58-1-114 et seq.; Tennessee Code Annotated 78-5-104; Governor Don Sundquist, Executive Order 1, An order transferring the TennCare program and its related functions from the Department of Health to the Department of Finance and Administration and assigning certain oversight responsibilities to the Department of Commerce and Insurance, January 26, 1995; Governor Don Sundquist, Executive Order 11, An order transferring certain functions of the Department of Finance and Administration (TennCare program) to the Department of Health, January 3, 1997; Governor Don Sundquist, Executive Order 23, An order transferring the TennCare program and its related functions and administrative support from the Department of Health to the Department of Finance and Administration, October 19, 1999; Division of TennCare, “TennCare Overview,” <https://www.tn.gov/tenncare/article/tenncare-overview> (accessed Nov. 28, 2017).

TBI's establishment in Title 38, rather than Title 4, Chapter 3, may have been by oversight rather than design. TBI's predecessor, the Tennessee Bureau of Criminal Identification (TBCI), was housed in Title 38, Chapter 6, but as an office within the Department of Safety, TBCI automatically fell under the powers in Title 4. When TBI became a separate department, Title 38, Chapter 6 was partially rewritten and all references to TBCI were changed to TBI. Such changes may have been a "quick fix" to grant TBI independence, and the legislature may not have considered moving TBI to Title 4, Chapter 3 for consistency with the other state departments.

Whether as the result of oversight or design, however, TBI's position in Title 38 may protect its independence. TCA 4-4-102 allows the Governor to transfer, by executive order, any function between any of the departments in Title 4, Chapter 3, excluding the audit function within the Comptroller of the Treasury. Given that TBI is not included in Title 4, Chapter 3, it appears that the Governor does not have the authority to transfer functions, such as related duties of the Department of Safety, to or from TBI.<sup>00</sup> This may prevent the Governor from transferring TBI's investigatory duties back to a department directly supervised by the Governor to deter or discontinue investigations of executive agencies or the Governor. See the related box regarding the North Carolina Bureau of Investigation, and page 90 for the proposed transfer of TBI's accounting functions to F&A.

### **The TBI Director's unique appointment process provides a separation of powers and is, to an extent, nonpartisan.**

The TBI Director is a unique state official: he or she is the only cabinet-level department head that is not an executive branch commissioner or a constitutional officer. Due to other state departments' clear position in state government, their agency heads are selected by a single branch: 22 executive agency heads are directly appointed by and hold office at the pleasure of the Governor; three legislative constitutional officers are elected by the legislature; and the Attorney General is chosen by the Supreme Court.

By contrast, the appointment process for TBI's Director requires input from all three branches of government. The Speaker of the Senate and Speaker of the House choose four of the five members of a nominating commission. Each Speaker chooses two individuals from different political parties, who are then confirmed by a resolution of the respective house. The Executive Director of the District Attorneys General Conference serves as the fifth member of the nominating commission.

The commission selects three candidates for the position of TBI Director – each of which “shall be a person of experience and ability in the detection of crime” – and the Governor makes the final appointment. If the Governor rejects all three candidates, the commission has 60 days to submit three more names for consideration. The process may continue *ad infinitum* if the Governor continues to reject nominees.<sup>74</sup>

---

<sup>00</sup> Based on state law, the only division of TBI that the Governor has the authority to transfer is the Medicaid Fraud Control Unit. TCA 71-5-2508 creates the Medicaid Fraud Control Unit within TBI's Criminal Investigation Division or “within another appropriate agency at the discretion of the governor.”

In this manner, the appointment process for the TBI Director balances power among all three branches of government and is, to an extent, nonpartisan. The Governor cannot bypass the other two branches and directly appoint his or her own candidate. On the other hand, the legislative and judicial nominating commission cannot effectively “stack the deck” with candidates the Governor finds unsatisfactory, as the Governor may continue to reject candidates and has, in a sense, unlimited choices.

The TBI Director serves for a term of six years.<sup>75</sup> Assuming the Director completes the full term, it is possible that he or she will overlap with different Governors, an unlikely event for an executive branch commissioner.<sup>PP</sup> Furthermore, the requirement that each Speaker choose two nominating commission members from different political parties provides greater insulation from changes in majority party control of the House and Senate. This process, coupled with the six-year term, protects TBI leadership to an extent from party changes in both the executive and legislative branches.

---

**The appointment process for TBI’s Director requires input from all three branches of government and, coupled with the Director’s six-year term, is nonpartisan to some extent.**

**A Comptroller review of authorizing legislation for more than 75 state entities in Tennessee found that no other entity selected agency heads in the same manner as TBI.**

---

A Comptroller review of authorizing legislation for more than 75 state entities in Tennessee found that none of the entities reviewed selected agency heads in the same manner as TBI. The most similar appointment process is that of judicial selection, which is used to select judges for the Supreme Court, Court of Appeals, Court of Criminal Appeals, Claims Commission, and Workers’ Compensation Appeals Board. Under the process, the Governor appoints a panel of 11 members, which submits three names for the position of judge. If the Governor rejects the first round of three nominees, the commission then suggests an additional three names. The Governor must make an appointment from those six candidates. Following the Governor’s appointment, the legislature confirms each selection.<sup>76, 77</sup>

### Transferring the North Carolina State Bureau of Investigation

North Carolina’s Attorney General is one of the state’s highest-ranking officials that is popularly elected, rather than appointed by the Governor. Prior to 2014, the State Bureau of Investigation, North Carolina’s analogue to TBI, fell under the Justice Department overseen by the Attorney General.

Through the 2014 budget, the legislature and Governor moved the State Bureau of Investigation from the Attorney General’s oversight to the Department of Public Safety, an executive agency. Although the bureau is termed an independent agency for investigative purposes, it now reports directly to the Governor.

The then-Attorney General stated that, at the time of the transfer, the State Bureau of Investigation was investigating several legislators and the Department of Public Safety, to which the bureau was ultimately transferred. During that Attorney General’s term, the bureau had been involved with criminal cases against two former Governors or their aides for violations of campaign finance laws.

Source: North Carolina Department of Justice, “The Attorney General,” <http://www.ncdoj.gov/About-DOJ/The-Attorney-General.aspx> (accessed Nov. 27, 2017); North Carolina State Bureau of Investigation, “SBI History,” <http://www.ncsbi.gov/Home/SBI-History.aspx> (accessed Nov. 27, 2017); State of North Carolina, Office of State Budget and Management, *Certified Budget – Revised (BD307)*, fiscal year 2014-15, [https://files.nc.gov/ncosbm/Certified\\_2014-15\\_JPS.pdf](https://files.nc.gov/ncosbm/Certified_2014-15_JPS.pdf) (accessed Nov. 27, 2017); Craig Jarvis, “Another move afoot to put SBI under governor’s control,” *The News & Observer*, May 9, 2014, <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article10327016.html> (accessed Oct. 12, 2017); Craig Jarvis, “Senate budget tries again to move SBI from attorney general,” *Charlotte Observer*, May 29, 2014, <http://www.charlotteobserver.com/news/politics-government/article9126122.html> (accessed Nov. 27, 2017).

<sup>PP</sup> The current TBI Director has been appointed for three successive terms by two separate Governors, and, to date, is the first Director to have done so. Tennessee Bureau of Investigation, Annual Report 2016-17, October 11, 2017, p. 4, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).

## ANALYSIS OF INDEPENDENCE

While the selection process for judges is similar to that followed for selecting the TBI Director, it does not add insight into TBI's position in state government and to which branch TBI belongs. There is no doubt that judges are members of the judicial branch, as outlined in the state constitution; conversely, the TBI Director's unusual appointment process, combined with a more limited removal process than other similar state officials, further suggests that TBI is not clearly a part of one of the three branches of government.

Other states have adopted one of three general models in establishing their main state criminal investigative units' location in state government:

- Thirty-seven states house such units in an executive branch agency under the Governor's authority;
- Seven states house such units in an agency under an elected Attorney General's authority (typically considered part of the executive branch); and
- Six states structure such units to be independent, generally by providing for unit directors to be appointed by outside authorities such as a commission, and/or by providing for unit directors to have terms longer than the Governor's term.

"State Investigative Units - Location in State Government" which is exhibited below, shows where each state's criminal investigation unit is housed. Not all of these investigation units are analogous to TBI because some functions, such as forensic laboratories or centralized criminal data warehouses, may be housed in separate agencies. Also, some states divide even their investigative functions between a state police unit, generally under a Governor's authority, and a department of justice unit, generally under an Attorney General's authority, depending on the type of crime and its original jurisdiction.

### State Investigative Units – Location in State Government

The bold-faced investigative units listed below are the state members of the Association of State Criminal Investigative Agencies (ASCIA). Membership is for state agencies that house the division, unit, or bureau having statewide jurisdiction, with a primary purpose for general criminal investigation, and whose personnel have full peace officer power. Four states do not have member units in ASCIA (\*).

Housed in an Executive Branch Agency under the Governor's Authority	
<b>Alabama Department of Public Safety</b> within the Alabama Law Enforcement Agency	<b>Minnesota Bureau of Criminal Apprehension</b> within the Department of Public Safety
<b>Alaska State Troopers</b>	<b>Mississippi Department of Public Safety</b>
<b>Arizona Department of Public Safety</b>	<b>Missouri Highway Patrol</b> within the Department of Public Safety
<b>Arkansas State Police</b>	<b>Nebraska State Patrol</b>
<b>Colorado Bureau of Investigation</b> within the Department of Public Safety	Nevada Department of Public Safety*
<b>Connecticut State Police</b>	New Hampshire Division of State Police* within the Department of Safety
<b>Delaware State Police</b>	<b>New Jersey State Police</b> within the Department of Law and Public Safety
<b>Florida Department of Law Enforcement</b>	<b>New Mexico State Police</b> within the Department of Public Safety
Hawaii Department of Attorney General* (Attorney General is appointed by the Governor)	<b>New York State Police</b>
<b>Idaho State Police</b>	<b>Oregon State Police</b>
<b>Illinois State Police</b>	<b>Pennsylvania State Police</b>



## ANALYSIS OF INDEPENDENCE

Housed in an Executive Branch Agency under the Governor's Authority	
<b>Indiana State Police</b>	<b>Rhode Island State Police</b> within the Department of Public Safety
<b>Iowa Department of Public Safety</b>	<b>Utah Department of Public Safety</b>
<b>Kentucky State Police</b> within the Justice and Public Safety Cabinet	<b>Vermont State Police</b> within the Department of Public Safety
<b>Louisiana State Police</b> within the Department of Public Safety and Corrections	<b>Virginia State Police</b>
<b>Maine State Police</b> within the Department of Public Safety	<b>Washington State Patrol</b>
<b>Maryland State Police</b>	West Virginia State Police* within the Department of Military Affairs and Public Safety
<b>Massachusetts State Police</b>	<b>Wyoming Division of Criminal Investigation</b> within the Office of Attorney General (who is appointed by the Governor)
<b>Michigan State Police</b>	

Housed under an Elected Attorney General's Authority	
<b>California Bureau of Investigation</b> within the Department of Justice	<b>North Dakota Bureau of Criminal Investigation</b> within the Office of Attorney General
<b>Kansas Bureau of Investigation</b> within the Office of Attorney General	<b>South Dakota Division of Criminal Investigation</b> within the Office of Attorney General
<b>Montana Division of Criminal Investigation</b> within the Department of Justice	<b>Wisconsin Division of Criminal Investigation</b> within the Department of Justice
<b>Ohio Bureau of Criminal Investigation</b> within the Office of Attorney General	

Structured to Provide Independence	Appointment Provisions
<b>Georgia Bureau of Investigation (GBI)</b>	A 15-member Board of Public Safety appoints the Director of GBI, with approval by the Governor, to a 4-year term concurrent with the Governor's. The Board is chaired by the Governor, who also appoints 4 members directly and 5 members with the consent of the Senate. Members serve for staggered three- or four-year terms, with the exception of two ex-officio members and one appointee.
<b>North Carolina State Bureau of Investigation (SBI)</b> within the Department of Public Safety	Governor appoints the Director of SBI to an 8-year term, with legislative confirmation. The Governor may remove the Director for statutory cause. The Department of Public Safety, headed by a Secretary, houses SBI for administrative purposes only.
<b>Oklahoma State Bureau of Investigation (OSBI)</b>	OSBI Commission appoints the Director of the OSBI. The 7 members of the commission are appointed by the Governor to staggered 7-year terms.
<b>South Carolina State Law Enforcement Division (SLED)</b>	Governor appoints the SLED Director to a 6-year term, with the advice and consent of the Senate, and may only remove the Director for cause.
<b>Tennessee Bureau of Investigation (TBI)</b>	Governor appoints the TBI Director to a 6-year term, selecting the appointee from three candidates put forward by a 5-member nominating commission of four legislatively-appointed members plus the Executive Director of the District Attorneys General Conference.
<b>Texas Department of Public Safety (DPS)</b>	Governor, with Senate confirmation, appoints a 5-member Public Safety Commission to staggered six-year terms. The commission appoints the DPS Director, who serves at the pleasure of the commission.

### **The legislature and Governor have more limited power to remove TBI's Director than they do to remove other state officials.**

The power to remove state officials often rests with the appointing authority. The state constitution specifies that the three legislatively elected constitutional officers – the Secretary of State, Comptroller of the Treasury, and Treasurer – may be impeached whenever the House of Representatives believes the officer may have committed “any crime in their official capacity which may require disqualification.” The House may also impeach “attorneys of the state,” which presumably includes the Attorney General, the remaining non-executive constitutional officer.<sup>QQ</sup> The Senate, with the Chief Justice of the Supreme Court presiding, tries the impeachment. A conviction results in removal from office and a ban from holding future office, not a criminal conviction.<sup>RR</sup>

Although the Adjutant General, the final constitutional officer, may not be impeached, the constitution specifies that the position is appointed by the Governor; state law provides that he or she serves at the pleasure of the Governor, and so may be removed by the Governor for any reason, including those less severe than suspected criminal activity.<sup>78,79</sup> Similarly, while executive branch commissioners cannot be impeached, the Governor has the power to remove them at any time for any reason.

The authority to remove the TBI Director is much narrower. The TBI Director is not a constitutional officer and is not subject to impeachment as outlined in the constitution – in other words, the legislature does not have the capacity to directly remove the Director. Similarly, because the Director is not a commissioner, he or she cannot be removed by the Governor acting alone. In this respect, TBI's Director is more protected than a legislative branch constitutional officer or an executive branch commissioner. Nonetheless, no special process or special protections are outlined in state law for removing a TBI Director, and the position is subject to “judicial removal,” the same process in Title 8, Chapter 47 that governs ouster proceedings for other non-impeachable state officials.<sup>SS,80</sup> The complaint is heard in circuit, chancery, or criminal court.

#### **Appointing and Removing the TBI Director**

The appointment and removal process for the TBI Director were some of the most contentious aspects of TBI's creation in 1980. The Governor wanted the power to directly appoint the TBI Director and the ability to remove the Director “for cause.” Such provisions would have made the Director much more similar to an executive commissioner than the current-day position.

The legislature originally wanted to confirm the Governor's appointment and to have the sole ability to remove the TBI Director with a two-thirds vote of the Senate. The Governor vetoed the bill with these proposals.

Ultimately, the current nominating commission was created as a compromise between the executive and legislative branches, and no power was granted to either branch to directly remove the TBI Director.

---

<sup>QQ</sup> The Governor, Supreme Court judges, and lower court judges and chancellors may also be impeached. *Tennessee State Constitution*, Article V, Section 4.

<sup>RR</sup> Parties to impeachment remain liable for criminal activity through the court system. *Tennessee State Constitution*, Article V, Section 4.

<sup>SS</sup> This process also applies to executive commissioners; however, “serving at the pleasure of the Governor” allows commissioners to be dismissed for broader reasons than those enumerated in Title 8, Chapter 47.



## ANALYSIS OF INDEPENDENCE

---

As outlined in state law, proceedings to remove the TBI Director may be initiated based on:

- knowing or willful official misconduct;
- knowing or willful refusal to carry out official duties;
- voluntary public intoxication, including outside of working hours;
- illegal gambling; and
- crimes involving moral turpitude.<sup>TT</sup>

Any state ouster proceeding begins with an investigation by the Attorney General or District Attorney. The complaint is filed in court upon the request of the Governor, following an investigation initiated in writing by any citizen, or by the Attorney General or District Attorney acting independently. A complaint must also be filed upon the petition of 10 citizens even “without the concurrence” of the Attorney General or District Attorney.

While the Governor has input into the removal process — the Governor can initiate proceedings in court — the executive branch has no direct power to oust the TBI Director. The General Assembly also has no direct power, acting in its capacity as the legislative branch, to remove the Director, since the position is non-impeachable. Legislators acting in their capacity as private citizens, however, could request an investigation that might result in the Director’s removal.

Additionally, neither the legislature nor the Governor can directly appoint a replacement in the event of the TBI Director’s removal, resignation, or disability. TCA 4-4-115 authorizes the Governor to appoint a replacement or acting commissioner for all commissioners in the event of absence or disability; this power extends to the Secretary of State, Comptroller of the Treasury, and Treasurer if the vacancy occurs when the legislature is not in session.<sup>81</sup> TBI’s statute, by contrast, specifies that the Deputy Director of the Criminal Investigation Division serves as acting director in case of the TBI Director’s vacancy until the nominating commission reconvenes for the Governor to make a new appointment.<sup>82</sup>

Consequently, TBI’s Director is more protected from removal than a constitutional officer or a commissioner, and an internal line of succession is preserved in the case of ouster proceedings or other vacancies.

### Is TBI an executive agency?

Although the Governor appoints the TBI Director, TBI is the only cabinet-level state department with a gubernatorially appointed agency head where:

- the Governor does not directly appoint the agency head, but chooses from a list of three candidates selected by an independent nominating commission;
- the agency head serves a statutorily specified six-year term, which may overlap with different Governors;
- the Governor does not appear to have the power to restructure the department or transfer functions to other state departments; and
- the Governor has no direct power to remove the agency head, or appoint an interim agency head in case of vacancy.

Based on these factors, it is unclear whether TBI is an executive agency.

---

<sup>TT</sup> “Moral turpitude” is not defined in state law. A body of case law has established that larceny, burglary, theft, and assault to commit murder are crimes of moral turpitude. In 1986, the Tennessee Court of Appeals upheld that a City of Dyersburg employee who had tampered with his cable box to receive HBO without a subscription had also committed a crime of moral turpitude. Tennessee Office of the Attorney General, Op. No. 08-108, May 14, 2008; Larry Lee vs. Personnel Merit Board of the City of Dyersburg, City of Dyersburg Police Department, 1986 Tenn. App. LEXIS 3560.

### Is TBI a legislative agency?

There are relatively few legislative entities. The legislature jointly elects the agency heads of the three legislative constitutional offices: the Secretary of State, the Treasurer, and the Comptroller of the Treasury. A special committee of legislators chooses the directors of staff offices, such as the Office of Legal Services and the Office of Legislative Budget Analysis.

With regard to TBI:

- the Speakers of the House and Senate appoint four members of the five-member nominating commission for TBI Director, but the Speakers, a committee of legislators, or the legislature as a whole do not directly appoint or elect the agency head;
- the legislature has no direct power to remove the agency head; and
- while the legislature has the power to restructure the agency in law or control funding through the appropriations act, it has this power over all state entities.

Based on these factors, it is unclear whether TBI is a legislative agency.



EXECUTIVE



LEGISLATIVE

### Is TBI a judicial agency?

The Attorney General's Office is the only cabinet-level department within the judicial branch. The Administrative Office of the Courts supports the state's various courts, and the popularly elected District Attorneys and Public Defenders are divided into 31 districts across the state. The nine-member Post-Conviction Defender Oversight Commission chooses the Post-Conviction Defender.

Regarding TBI:

- the Executive Director of the District Attorneys General Conference is a permanent member of the five-member nominating commission for the TBI Director, but does not directly appoint the agency head;
- the judicial branch does not have the power to restructure or reorganize the agency;
- although the Attorney General's Office can investigate and initiate proceedings against the TBI Director, it has this power over all non-impeachable state officials; and
- the court system has no special power to remove the TBI Director, and must follow the same "judicial removal" process used to oust all non-impeachable state officials.

Based on these factors, it is unclear whether TBI is a judicial agency.



JUDICIAL

### **TBI does not consider itself an executive, legislative, or judicial agency**

TBI considers itself independent of all three branches of government, and has made operational decisions based on this concept. In 2016, the General Assembly created the position of Executive Internal Auditor, which is appointed by and serves at the pleasure of the Governor. Among other duties, the Executive Internal Auditor develops internal audit standards and coordinates the internal auditors of executive branch agencies. The law defines an “executive branch agency” as “any unit organization of the executive branch of state government,” and specifies that the University of Tennessee system, the Tennessee Board of Regents, the judicial branch, and the legislative branch are not included in this definition.

TBI believed it did not fall under the authority of the Executive Internal Auditor and that the bureau was exempt from the requirements. Management felt that the position’s oversight and resources would benefit the bureau, however, and so TBI voluntarily “opted in.”

Source: *Tennessee State Constitution*, Article III, Section 17, Article VI, Section 5, Article VII, Section 3; *Tennessee Code Annotated* 3-10-101 et seq.; *Tennessee Code Annotated* 3-12-101 et seq.; *Tennessee Code Annotated* 3-14-201 et seq.; *Tennessee Code Annotated* 16-3-801 et seq.; *Tennessee Code Annotated* 8-7-101 et seq.; *Tennessee Code Annotated* 8-14-101 et seq.; *Tennessee Code Annotated* 40-30-201 et seq.; Lori Edmunds, Internal Audit Director, Tennessee Bureau of Investigation, e-mail, Oct. 26, 2017; *Tennessee Code Annotated* 4-4-124.

### **TBI is not granted statutory fiscal and administrative flexibility, which may be inconsistent with its statutory setup and potentially its independence.**

Executive branch agencies function as a unit: F&A directly oversees their funding, and the agencies must follow uniform policies regarding procurement and staffing.

State law grants flexibility in these three areas to certain legislative and judicial agencies. In many cases, these agencies have the ability to “opt in,” but are not required to adhere to executive branch policies and procedures.

### **The executive branch has more limited control over some legislative and judicial agencies’ funding.**

F&A has considerable control over executive agencies’ funding. As provided in state law, F&A:

- may review and deny any requisition for purchase;<sup>83</sup>
- must approve, along with the Governor, an agency’s request to move funding or positions between its programs and divisions before its budget is finalized at the beginning of the fiscal year;<sup>84</sup>
- may transfer or reallocate some specified funding sources between divisions of an agency or to another agency;<sup>85</sup>
- must approve, along with the Speakers of the Senate and House and the Comptroller of the Treasury, all other funding transfers between divisions of an agency;<sup>86</sup> and
- may deny any contract if funding is not available.<sup>87</sup>

Legislative and judicial agencies, by contrast, are exempted in statute from some or all of these requirements. F&A cannot deny requisitions or contracts of the legislative and judicial branches, although these agencies must first confirm that funding is available before entering into a contract.<sup>88</sup> Additionally, F&A must approve any requests from the Secretary of State’s Office, Department of Treasury, and Comptroller’s Office to move positions or funding within their budgets at the beginning of the fiscal year if the requests are approved by the House and Senate Speakers and do not involve more funding than was originally appropriated.<sup>89</sup>

Finally, state law specifies that F&A administers funding for the Secretary of State, Treasurer, and Comptroller of the Treasury in a “ministerial capacity.”<sup>90</sup> Although these three departments use the same accounting system as the rest of the state, F&A has no authority to dispute or deny any transactions.

## ANALYSIS OF INDEPENDENCE

---

### **Legislative and judicial agencies do not have to follow statewide procurement policies.**

CPO, within the Department of General Services, is responsible for coordinating state agencies' procurement of goods and services. For example, CPO:

- establishes the various types of procurements, such as a competitive procurement, sole source procurement (only one vendor can meet the requirements), or proprietary procurement (the needed good or service is patented or copyrighted);
- creates policies and procedures specifying the timeline and all steps that must be taken throughout the procurement process, including the solicitation, evaluation, and negotiation; and
- communicates with vendors, evaluates bids, and approves contracts.<sup>91,92</sup>

While the legislative branch, judicial branch, and state colleges and universities may follow CPO policies and procedures, they are exempted in law from these requirements.<sup>UU, 93</sup> Consequently, such agencies have the option to exercise a considerable degree of flexibility when contracting for goods or services.

For example, rather than completing a competitive procurement and drafting a solicitation, holding a pre-response conference with prospective bidders, providing a written question and answer period, etc., a judicial or legislative agency could use this statutory flexibility to directly reach out to selected vendors. The agency could further use the authority to evaluate vendor proposals and proceed immediately with a contract without CPO's approval. Using such flexibility could abbreviate the procurement process used to procure services.

### **Legislative and judicial agencies are not required to adopt uniform performance evaluations and link evaluations to employee raises.**

The Tennessee Excellence, Accountability, and Management (TEAM) Act, passed in 2012 and codified at Title 8, Chapter 30, revised the state's civil service system that was first established in 1939. Among other things, the law required:

- the creation of a uniform performance evaluation system based on specific, measurable, achievable, relevant, and time sensitive (SMART) standards and outcomes;<sup>94</sup>
- the creation of a merit pay system to tie raises to performance evaluations (pay for performance), rather than across-the-board increases for all employees;<sup>VV, 95</sup>
- position openings to be announced for at least one week and, for certain classes of positions, for the agency to offer to interview at least three candidates and make a hiring decision within 30 days;<sup>96</sup>
- hiring preference for veterans, and an automatic interview for spouses of totally service-disabled veterans and surviving spouses of veterans killed in the line of duty;<sup>97</sup> and
- employee layoff decisions to be primarily based on performance evaluations, rather than seniority.<sup>98</sup>

The law exempted the judicial branch — including the courts, Attorney General's Office, District Attorneys, and Public Defenders — and the legislative branch and offices of the legislatively elected constitutional officers.<sup>WW, 99</sup> As a result, these agencies may, but are not required to, comply with the law's various

---

<sup>UU</sup> Certain other types of contracts, such as construction and engineering contracts by the Department of Transportation and contracts related to bond issues, are also exempt from this section of law.

<sup>VV</sup> Market-rate adjustments to make state salaries more competitive with their private-sector equivalents are not subject to pay for performance.

<sup>WW</sup> Employees of state colleges and universities, the Tennessee Higher Education Commission, the Tennessee Advisory Commission on Intergovernmental Relations, the Tennessee Housing Development Agency, and the Tennessee Rehabilitative Initiative in Correction, as well as licensed staff of the state's special schools (e.g., the Tennessee School for the Blind), were also exempted from the requirements of the TEAM Act.

provisions; for example, while these agencies could adopt the performance evaluation system created by the Department of Human Resources within the executive branch, these agencies could also continue using their previous evaluations or develop new systems.

Legislative and judicial agencies may also use this authority for annual employee raises. In fiscal year 2018, for example, non-TEAM agencies received a pool of funding sufficient to provide a 3 percent raise for each employee.<sup>100</sup> Rather than allocating raises based solely on performance evaluations, however, these agencies could give “traditional” 3 percent across-the-board raises to all employees, or distribute all or part of the funding based on performance.

### **TBI’s lack of flexibility may be inconsistent with its statutory setup and potentially its independence.**

The various flexibilities of legislative and judicial agencies regarding funding, procurement, and personnel are not expressly granted to TBI, and the bureau’s undefined position in state government makes it unclear whether certain laws and rules apply to TBI.

Procurement and personnel laws cover all state entities except those specifically exempt, namely legislative and judicial agencies. Procurement rules promulgated by CPO, however, apply to “the various departments, institutions, boards, commissions, and agencies of the executive branch of government,” with listed exceptions, such as certain Department of Transportation contracts.<sup>101</sup> Similarly, Department of Human Resources rules regarding the TEAM Act and personnel define “agency” as “any entity that employs and exercises authority over any employee in the state service in the executive branch.”<sup>102</sup>

Thus, while TBI is not explicitly exempt from procurement and personnel laws, it does not appear to be covered by the definitions in statewide procurement and personnel rules. In practice, TBI has been following CPO policies for procurement and the provisions of the TEAM Act.

Regardless of which agencies are ultimately covered by definitions outlining the applicability of procurement and personnel policies, the general intent of both law and rules appears to be to exempt state entities that are strictly non-executive. It is unclear whether TBI is a legislative, judicial, or executive agency, or removed from all three branches – therefore, given the bureau’s independence, it may be appropriate for TBI to be likewise exempt from these sections of state law.

Statutes regarding flexibility with F&A have narrower exemptions. Rather than broadly exempting entire branches of government, legislative and judicial agencies are specifically written out by name. Furthermore, such exemptions are not always applied consistently across the various flexibilities. For example, the District Attorneys, Public Defenders, and the Office of the Post-Conviction Defender, rather than the Commissioner of F&A, certify that sufficient funding is available before entering into a contract.<sup>103</sup> In another section of code, however, these agencies are not exempted from F&A’s authority to examine and deny all requisitions.<sup>103</sup>

#### **Centralized Accounting**

In an effort to “greatly enhance the ability to maintain and close the accounting records to prepare timely interim reports and timely comprehensive annual financial reports,” the accounting function of most state departments and other agencies has been or will be consolidated into a centralized accounting unit within F&A. Although no legislative or judicial departments are included in this initiative, TBI is among the agencies listed for potential consolidation.

The executive order cites the Governor’s statutory ability to transfer functions between the departments created in Title 4, Chapter 4, of Tennessee Code Annotated as its authority. Because TBI is established in Title 38, rather than Title 4, however, the executive order’s authority does not appear to extend to the bureau.

Source: Governor Bill Haslam, Executive Order 30, An order regarding centralized accounting by the Department of Finance and Administration, June 27, 2013.



## ANALYSIS OF INDEPENDENCE

---

Similarly, only the three legislative constitutional offices may revise their budgets to reallocate funding or positions at the beginning of the fiscal year without approval from the executive branch. The Speakers of the House and Senate approve these revisions, rather than the Commissioner of F&A and the Governor. No judicial agency is granted flexibility in this regard, and all changes must be approved by the Commissioner of F&A and the Governor.<sup>104</sup>

Based on TBI's position as an independent agency that does not directly report to a single branch of government, it may be appropriate to grant TBI statutory exemptions from some or all of F&A's authority regarding agencies' funding.

### **Though operationally independent, TBI is accountable to nearly all of the same forces as other state departments.**

TBI's unique role in state government requires a balance between independence and accountability. The bureau requires a degree of independence, as it has investigated officials in all three branches of government and may do so in the future:

- TBI, often in cooperation with the Federal Bureau of Investigation, has investigated multiple state legislators for corruption, notably in the Rocky Top scandal of the late 1980s and the Tennessee Waltz scandal in the mid-2000s.<sup>105</sup>
- In 2011, following a TBI investigation, a Knox County criminal court judge was charged with and pled guilty to official misconduct involving abuse of prescription drugs and purchases of those drugs from felons.<sup>106</sup>
- TBI's creation as an independent agency in 1980 was a direct result of scandals surrounding former Governor Ray Blanton's administration; later that year, TBI's functions were transferred from the Department of Safety to a separate, newly created department with greater ability to independently investigate the Governor and executive branch.

Despite TBI's independence, multiple checks and balances exist to ensure that TBI is fulfilling its duties and provide opportunities for corrective action, if necessary.

### **TBI is independent, but multiple entities keep the bureau accountable.**

Because TBI has been involved with investigations of all three branches of government, support exists for insulating TBI from direct oversight by any one branch. Even so, the bureau is not immune from regulation or corrective action in the case of mismanagement. In other words, while TBI is independent, the bureau is still accountable:

- **the state legislature** may amend, remove, or transfer any of TBI's powers and duties in state law;
- **the Governor, in concert with the nominating commission for the TBI Director**, may choose to appoint a new Director at the end of the current Director's term;
- **the state legislature and the Governor**, through the budgetary process, may reduce or deny funding for TBI's current functions or proposed expansions;
- **the District Attorneys, Attorney General's Office, local law enforcement, and judges**, who work closely with TBI on investigations and prosecutions, may bring concerns to the legislature or their respective oversight bodies;
- **regularly scheduled performance audits and sunset hearings** may identify operational or financial problems and prompt changes in the bureau's operations or structure;

While TBI is independent, various entities have significant input into its operations and serve as checks and balances in the case of TBI mismanagement.

## ANALYSIS OF INDEPENDENCE

---

- **national accrediting bodies** may not renew TBI's accreditation if it does not meet standards regarding investigations, forensics and evidence handling, fiscal management, employment, and many other areas;
- **members of the public** may bring first-hand complaints and operational deficiencies to the attention of state legislators or other officials; and
- **the press** may identify, investigate, and highlight issues.

### **The public has successfully lobbied for changes to TBI in the past.**

In the early 2000s, increased collections of DNA samples resulted in a backlog of evidence awaiting TBI processing: in early 2006, about 425 criminal investigations required DNA analysis that took approximately 28 weeks to process.<sup>107</sup> TBI attempted to address the matter by obtaining additional federal grant funding, which allowed the bureau to outsource DNA analysis to external labs; pay overtime for employees; purchase new equipment; and contract with external organizations to validate equipment prior to use, allowing the bureau to spend more time examining evidence.

In addition to the federal grant funding, TBI stated that the creation of six state-funded forensic scientist positions “really had an impact on the number of cases” the bureau could process.<sup>108</sup> Along with the new positions, TBI purchased mobile laboratory vans to allow on-site evidence processing.<sup>109</sup> The legislation authorizing the positions stated that members of the public brought the backlog and need for additional staff to the legislature's attention:

The need for additional staff . . . was ably brought to the attention of this general assembly by the continuing tenacity, perseverance and courage of the family of Johnna [sic] Berry in their ceaseless quest to bring to justice the person who murdered their daughter and to try to prevent a similar tragedy from happening to someone else's child.<sup>110</sup>

The TBI Director said the family was “instrumental in lobbying” for the forensic vans.<sup>111</sup> As a result of increased state and federal funding, TBI stated that DNA evidence processing time was reduced to eight weeks.<sup>112</sup>

The following year, the General Assembly passed the “Johnia Berry Act of 2007.” In addition to naming TBI's Knoxville crime laboratory the “Johnia Berry DNA Office,” the law required the collection of DNA specimens from all persons arrested in conjunction with a violent felony.<sup>113</sup> TBI stated that this requirement increased DNA collections from approximately 2,000 to 23,000 samples a year.<sup>114</sup>



# Endnotes



---

## ENDNOTES

- <sup>1</sup> Tennessee Bureau of Investigation, “Our History,” <https://www.tn.gov/tbi/article/our-history> (accessed June 21, 2017).
- <sup>2</sup> *Tennessee Public Acts*, 77<sup>th</sup> General Assembly, 1951 regular session, Public Chapter 173.
- <sup>3</sup> *Tennessee Public Acts*, 91<sup>st</sup> General Assembly, 1980 regular session, Public Chapter 636.
- <sup>4</sup> Associated Press, “Alexander to seek new name, power for TBI,” *The Jackson Sun*, January 3, 1980, p. 7A.
- <sup>5</sup> 91<sup>st</sup> Tennessee General Assembly, Senate floor discussion on Senate Bill 1046, April 11, 1979, and May 3, 1979.
- <sup>6</sup> Associated Press, “Alexander to seek new name, power for TBI,” *The Jackson Sun*, January 3, 1980, p. 7A.
- <sup>7</sup> Tennessee Constitution, Article III, Section 8.
- <sup>8</sup> *Tennessee Public Acts*, 91<sup>st</sup> General Assembly, 1980 regular session, Public Chapter 636.
- <sup>9</sup> 91<sup>st</sup> Tennessee General Assembly, Senate floor discussion on Senate Bill 1046, January 23, 1980.
- <sup>10</sup> *Tennessee Public Acts*, 91<sup>st</sup> General Assembly, 1980 regular session, Public Chapter 636.
- <sup>11</sup> Lori Edmunds, Internal Audit Director, Tennessee Bureau of Investigation, email, Nov. 29, 2017.
- <sup>12</sup> Larry Daughtrey, “White Collar Crime TBI Aim,” *The Tennessean*, August 6, 1980, p. 15.
- <sup>13</sup> *Tennessee Public Acts*, 80<sup>th</sup> General Assembly, 1957 regular session, Public Chapter 216.
- <sup>14</sup> *Tennessee Public Acts*, 86<sup>th</sup> General Assembly, 1970 regular session, Public Chapter 362; *Tennessee Public Acts*, 99<sup>th</sup> General Assembly, 1995 regular session, Public Chapter 469.
- <sup>15</sup> *Tennessee Public Acts*, 105<sup>th</sup> General Assembly, 2008 regular session, Public Chapter 988.
- <sup>16</sup> *Tennessee Public Acts*, 96<sup>th</sup> General Assembly, 1990 regular session, Public Chapter 976.
- <sup>17</sup> Tennessee Senate Journal, 91<sup>st</sup> General Assembly, 1979-80 regular sessions, p. 3,022.
- <sup>18</sup> *Tennessee Public Acts*, 93<sup>rd</sup> General Assembly, 1983 regular session, Public Chapter 120.
- <sup>19</sup> *Tennessee Public Acts*, 97<sup>th</sup> General Assembly, 1991 regular session, Public Chapter 480.
- <sup>20</sup> *Tennessee Public Acts*, 105<sup>th</sup> General Assembly, 2007 regular session, Public Chapter 225.
- <sup>21</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 341.
- <sup>22</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 541.
- <sup>23</sup> *Tennessee Public Acts*, 94<sup>th</sup> General Assembly, 1985 regular session, Public Chapter 478; and *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 341.
- <sup>24</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 341; and *Tennessee Public Acts*, 107<sup>th</sup> General Assembly, 2011 regular session, Public Chapter 268.
- <sup>25</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1099.
- <sup>26</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1071.
- <sup>27</sup> Section 39-17-1316(b), *Tennessee Code Annotated*, as codified in 1996 supplement.
- <sup>28</sup> *Tennessee Public Acts*, 104<sup>th</sup> General Assembly, 2005 regular session, Public Chapter 18.
- <sup>29</sup> *Tennessee Public Acts*, 108<sup>th</sup> General Assembly, 2014 regular session, Public Chapter 732.
- <sup>30</sup> *Tennessee Public Acts*, 107<sup>th</sup> General Assembly, 2011 regular session, Public Chapter 190.
- <sup>31</sup> *Tennessee Public Acts*, 108<sup>th</sup> General Assembly, 2015 regular session, Public Chapter 413.
- <sup>32</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 341; *Tennessee Public Acts*, 103<sup>rd</sup> General Assembly, 2004 regular session, Public Chapter 921; *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1071; and *Tennessee Public Acts*, 107<sup>th</sup> General Assembly, 2011 regular session, Public Chapter 435.
- <sup>33</sup> *Tennessee Public Acts*, 106<sup>th</sup> General Assembly, 2010 regular session, Public Chapter 733.
- <sup>34</sup> *Tennessee Public Acts*, 108<sup>th</sup> General Assembly, 2014 regular session, Public Chapter 733.
- <sup>35</sup> *Tennessee Public Acts*, 108<sup>th</sup> General Assembly, 2014 regular session, Public Chapter 856.
- <sup>36</sup> *Tennessee Public Acts*, 109<sup>th</sup> General Assembly, 2015 regular session, Public Chapter 503.
- <sup>37</sup> *Tennessee Public Acts*, 109<sup>th</sup> General Assembly, 2016 regular session, Public Chapter 979.
- <sup>38</sup> *Tennessee Public Acts*, 77<sup>th</sup> General Assembly, 1951 regular session, Public Chapter 173.
- <sup>39</sup> Section 38-6-102, *Tennessee Code Annotated*.
- <sup>40</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, p. 13, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>41</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 541.
- <sup>42</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, p. 17, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>43</sup> Governor Lamar Alexander, Executive Order 47, An order transferring the responsibility for investigating fraud in the Medicaid program from the Department of Public Health and vesting it in the Tennessee Bureau of Investigation, February 11, 1983.
- <sup>44</sup> *Tennessee Public Acts*, 103<sup>rd</sup> General Assembly, 2004 regular session, Public Chapter 673.
- <sup>45</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 23-24, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>46</sup> Section 38-6-102, *Tennessee Code Annotated*; Section 40-6-303 et seq., *Tennessee Code Annotated*.
- <sup>47</sup> Section 38-6-113, *Tennessee Code Annotated*.
- <sup>48</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 40-44, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).

- 
- <sup>49</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1069.
- <sup>50</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 30-34, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>51</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 7-11, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>52</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 46-47, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>53</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1997 regular session, Public Chapter 341.
- <sup>54</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 35-36, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>55</sup> *Tennessee Public Acts*, 77<sup>th</sup> General Assembly, 1951 regular session, Public Chapter 173.
- <sup>56</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1099.
- <sup>57</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, p. 37, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>58</sup> *Tennessee Public Acts*, 100<sup>th</sup> General Assembly, 1998 regular session, Public Chapter 1071.
- <sup>59</sup> Section 38-6-114, *Tennessee Code Annotated*.
- <sup>60</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 49-50, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>61</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, pp. 23-24, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>62</sup> State of Tennessee, *The Budget*, fiscal year 2004-05, pp. B-227, B-263.
- <sup>63</sup> *Tennessee Public Acts*, 103<sup>rd</sup> General Assembly, 2004 regular session, Public Chapter 961, Section 1, Item 19; *Tennessee Public Acts*, 109<sup>th</sup> General Assembly, 2016 regular session, Public Chapter 758, Section 66, Item 52.
- <sup>64</sup> State of Tennessee, *The Budget*, fiscal year 2017-18, pp. B-208, B-249.
- <sup>65</sup> *Tennessee Public Acts*, 110<sup>th</sup> General Assembly, 2017 regular session, Public Chapter 460, Section 1, Item 19, Section 64, Item 27.
- <sup>66</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, p. 49, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>67</sup> Brian Senecal, Fiscal Director, Tennessee Bureau of Investigation, email, Nov. 14, 2017.
- <sup>68</sup> Tennessee Bureau of Investigation, *Annual Report 2016-17*, October 11, 2017, p. 4, <https://www.tn.gov/tbi/article/recent-publications> (accessed Oct. 3, 2017).
- <sup>69</sup> Tennessee Constitution, Article III, Section 17, Article VI, Section 5, Article VII, Section 3, Article VIII, Section 2.
- <sup>70</sup> Section 38-6-101, *Tennessee Code Annotated*.
- <sup>71</sup> Section 38-6-101(b), *Tennessee Code Annotated*.
- <sup>72</sup> Tennessee Ethics Commission, “State Officials’ & Candidates’ Reports,” 2008 through 2017, <https://apps.tn.gov/conflict-app/search.htm> (accessed Nov. 21, 2017).
- <sup>73</sup> Section 4-3-303, *Tennessee Code Annotated*.
- <sup>74</sup> Section 38-6-101(b), *Tennessee Code Annotated*.
- <sup>75</sup> Section 38-6-101(b), *Tennessee Code Annotated*.
- <sup>76</sup> Governor Bill Haslam, Executive Order 54, An order amending Executive Order 41 relative to the Governor’s Council for Judicial Appointments for the appellate courts of Tennessee, May 17, 2016.
- <sup>77</sup> Section 17-4-101 et seq., *Tennessee Code Annotated*.
- <sup>78</sup> Tennessee Constitution, Article VIII, Section 2.
- <sup>79</sup> Section 58-1-115, *Tennessee Code Annotated*.
- <sup>80</sup> Section 38-6-101(b), *Tennessee Code Annotated*.
- <sup>81</sup> Section 8-3-105, *Tennessee Code Annotated*; Section 8-4-301 et seq., *Tennessee Code Annotated*; and Section 8-5-201 et seq., *Tennessee Code Annotated*.
- <sup>82</sup> Section 38-6-101(b), *Tennessee Code Annotated*.
- <sup>83</sup> Section 4-3-1006, *Tennessee Code Annotated*.
- <sup>84</sup> Tennessee Code Annotated 9-4-5112(a).
- <sup>85</sup> *Tennessee Public Acts*, 110<sup>th</sup> General Assembly, 2017 regular session, Public Chapter 460, Section 35.
- <sup>86</sup> *Tennessee Public Acts*, 110<sup>th</sup> General Assembly, 2017 regular session, Public Chapter 460, Section 15, Item 1.
- <sup>87</sup> Section 9-4-5113(a), *Tennessee Code Annotated*.
- <sup>88</sup> Section 4-3-1006, *Tennessee Code Annotated*; and Section 9-4-5113(b), *Tennessee Code Annotated*.
- <sup>89</sup> *Tennessee Code Annotated* 9-4-5112(b).
- <sup>90</sup> *Tennessee Code Annotated* 9-4-5113(c).
- <sup>91</sup> Section 4-56-105, *Tennessee Code Annotated*.
- <sup>92</sup> Department of General Services, Central Procurement Office, Amended Procurement Procedures Manual of the Central Procurement Office Dated: August 17, 2017, <https://www.tn.gov/generalservices/article/procurementinformation> (accessed Oct. 27, 2017).

- 
- <sup>93</sup> Section 12-3-102, *Tennessee Code Annotated*.
- <sup>94</sup> Section 8-30-313, *Tennessee Code Annotated*.
- <sup>95</sup> Section 8-30-207, *Tennessee Code Annotated*.
- <sup>96</sup> Section 8-30-301(b), *Tennessee Code Annotated*; and Section 8-30-306, *Tennessee Code Annotated*.
- <sup>97</sup> Section 8-30-307, *Tennessee Code Annotated*.
- <sup>98</sup> Section 8-30-314(e), *Tennessee Code Annotated*.
- <sup>99</sup> Section 8-30-102, *Tennessee Code Annotated*.
- <sup>100</sup> *Tennessee Public Acts*, 110<sup>th</sup> General Assembly, 2017 regular session, Public Chapter 460, Section 1, Item 22.
- <sup>101</sup> Rules of the Tennessee Department of General Services Purchasing Division, Chapter 0690-03-01.01(1), Applicability, effective Jan. 20, 2014.
- <sup>102</sup> Rules of the Tennessee Department of Human Resources, Chapter 1120-01-.01(4), Definitions, effective May 8, 2017.
- <sup>103</sup> *Tennessee Code Annotated* 9-4-5113(b).
- <sup>104</sup> *Tennessee Code Annotated* 4-3-1006.
- <sup>105</sup> *Tennessee Code Annotated* 9-4-5112(b).
- <sup>106</sup> Federal Bureau of Investigation, “FBI Memphis History,” <https://www.fbi.gov/history/field-officehistories/memphis> (accessed Nov. 27, 2017); and Federal Bureau of Investigation, “Tennessee Waltz: The Dance is Over,” May 2, 2008, [https://archives.fbi.gov/archives/news/stories/2008/may/tennesseewaltz\\_050208](https://archives.fbi.gov/archives/news/stories/2008/may/tennesseewaltz_050208) (accessed Nov. 27, 2017).
- <sup>107</sup> *Tennessee Bureau of Investigation Investigative Report*, Case No. KX-82A-000083, <http://www.documentcloud.org/documents/270260-the-redacted-tbi-file-on-former-judge-richard.html> (accessed Sept. 29, 2017); and State of Tennessee vs. Richard R. Baumgartner, Knox County Criminal Court, Case No. 96703, <http://web.knoxnews.com/pdf/2011/mar/031111judge2.pdf> (accessed Sept. 9, 2017).
- <sup>108</sup> *Tennessee Public Acts*, 104<sup>th</sup> regular session, Public Chapter 891.
- <sup>109</sup> “Interview: Clearing DNA Backlogs,” *Evidence Technology Magazine*, Volume 7, Number 5, Sept.-Oct. 2009, [http://www.evidencemagazine.com/index.php?option=com\\_content&task=view&id=160](http://www.evidencemagazine.com/index.php?option=com_content&task=view&id=160) (accessed Sept. 22, 2017).
- <sup>110</sup> Ansley Haman, “Families walk for crime victims,” *Knoxville News Sentinel*, Apr. 14, 2008, <http://archive.knoxnews.com/news/local/families-walk-for-crime-victims-ep-411794482-359923361.html/> (accessed Sept. 22, 2017).
- <sup>111</sup> *Tennessee Public Acts*, 104<sup>th</sup> General Assembly, 2006 regular session, Public Chapter 891.
- <sup>112</sup> Ansley Haman, “Families walk for crime victims,” *Knoxville News Sentinel*, Apr. 14, 2008, <http://archive.knoxnews.com/news/local/families-walk-for-crime-victims-ep-411794482-359923361.html/> (accessed Sept. 22, 2017).
- <sup>113</sup> “Interview: Clearing DNA Backlogs,” *Evidence Technology Magazine*, Volume 7, Number 5, Sept.-Oct. 2009, [http://www.evidencemagazine.com/index.php?option=com\\_content&task=view&id=160](http://www.evidencemagazine.com/index.php?option=com_content&task=view&id=160) (accessed Sept. 22, 2017).
- <sup>114</sup> *Tennessee Public Acts*, 105<sup>th</sup> General Assembly, 2007 regular session, Public Chapter 225.
- <sup>115</sup> Associated Press, “TBI Chief: No Funds to Implement New Johnia Berry Act,” *Knoxville Local 8 WVLT TV*, Dec. 3, 2007, <http://www.local8now.com/home/headlines/12094011.html> (accessed Sept. 22, 2017).

## CONTRIBUTORS

**JASON E. MUMPOWER**  
Chief of Staff

**LAUREN PLUNK**  
Deputy Chief of Staff

**ANN V. BUTTERWORTH**  
Assistant to the Comptroller  
for Public Finance

**JOHN DUNN**  
Public Information Officer

**SUSAN DENTON**  
Communications &  
Publications Manager

**NICOLE SHAFFER**  
Communications &  
Publications Specialist

### DIVISION OF STATE AUDIT

**DEBORAH V. LOVELESS, CPA,  
CGFM, CGMA**  
Director

**KANDI B. THOMAS, CPA, CFE,  
CGFM, CGMA**  
Assistant Director

**LAURA PICKETT ISBELL, CPA,  
CFE, CGMA, CGFM**  
Audit Manager

**MARTIN K. BROWN, CPA, CFE**  
In-Charge Auditor

**AMANDA CAIN, CFE**  
Staff Auditors

**DALTON HENSLEY**  
Staff Auditors

**AMY BRACK**  
Legislative Editor

**AMANDA ADAMS**  
Assistant Legislative Editor

### OFFICE OF RESEARCH AND EDUCATION ACCOUNTABILITY

**RUSSELL MOORE**  
Director

**LINDA WESSON**  
Assistant Director

**CAROLYNN POLANCHEK**  
Legislative Research Analyst

**PAIGE DONALDSON**  
Legislative Research Analyst

The Comptroller's Office would like to extend its gratitude to the staff and management of TBI for their cooperation and responsiveness during this review. We would also like to thank the staff and management of the Department of Finance and Administration, the Central Procurement Office, the Tennessee Highway Safety Office, and the Office of Criminal Justice Programs for their assistance.

